Federal Register

Tuesday
March 9, 1999

Part III

Environmental Protection Agency

40 CFR Part 63

National Emissions Standards for Hazardous Air Pollutant Emissions: Polymer and Resin (Groups I and IV) and Polyether Polyols Production; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–6301–4]

RIN 2060–AH–47 and 2060–AE81

National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins; National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins; and National Emission Standards for Hazardous Air Pollutants for Polyether Polyols Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; Amendments.

SUMMARY: On September 5, 1996 (61 FR 46906) and September 12, 1996 (61 FR 48208), the EPA promulgated the ''National Emission Standards for Hazardous Air Pollutants: Group I Polymers and Resins,'' (40 CFR part 63, subpart U) and the ''National Emission Standards for Hazardous Air Pollutants: Group IV Polymers and Resins,'' (40 CFR part 63, subpart JJJ), respectively. In December 1996, petitions for review of the September 1996 Polymers and Resins I and IV rules were filed in the U.S. Court of Appeals for the District of Columbia Circuit. The petitioners raised over 280 technical issues and concerns with the drafting clarity of these rules. This action proposes correcting amendments to these rules to address the petitioners' issues and any other inconsistencies that were discovered during the review process. In addition, on January 17, 1997 (62 FR 2722), amendments to the hazardous organic National Emission Standards for Hazardous Air Pollutants (NESHAP) (hereafter referred to as the ''HON'') which is heavily referenced by both the Polymers and Resins I and IV NESHAP, were promulgated. These proposed amendments will update cross-references and other terminology, as necessitated by the HON amendments, and will incorporate parallel changes to those made in the HON, in sections of the Polymers and Resins I and IV NESHAP which were originally modeled after the HON. In addition, the proposed amendments to subpart U in this action apply to the Polyether Polyols Production NESHAP (subpart PPP) insofar as subpart PPP cross-references requirements found in subpart U.

DATES: *Comments.* The EPA will accept comments regarding this proposal on or before May 10, 1999.

Public Hearing. If anyone contacts the EPA requesting to speak at a public hearing by March 24, 1999, a public hearing will be held in Research Triangle Park, North Carolina, beginning at 10 a.m. on April 8, 1999. Persons interested in attending the hearing should call Ms. Marguerite Thweatt at (919) 541–5673 to verify that a hearing will be held.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact EPA by March 24, 1999 by contacting Ms. Marguerite Thweatt, Organic Chemicals Group (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5673.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate, if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–92–44 (Group I Polymers and Resins) and/or Docket Number A–92–45 (Group IV Polymers and Resins), Room M–1500, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. The EPA requests that a separate copy also be sent to the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**). Comments may also be submitted electronically by following the instructions provided in **SUPPLEMENTARY INFORMATION**.

Docket. Docket numbers A–92–44 and A–92–45, containing information relevant to these proposed amendments, are available for public inspection between 8 a.m. and 5:30 p.m., Monday through Friday (except for Federal holidays) at the following address: U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center (MC–6102), 401 M Street, SW, Washington, DC 20460. Alternatively, a docket index, as well as individual items contained within the docket, may be obtained by calling (202) 260–7548 or (202) 260–7549. The docket is located at the above address in Room M–1500, Waterside Mall (ground floor). A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Robert E. Rosensteel, Organic Chemicals Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5608.

SUPPLEMENTARY INFORMATION:

Regulated Entities

The regulated category and entities affected by this action include:

Category	Examples of regulated entities
Industry	Butyl Rubber, Halobutyl Rubber, Epichlorohydrin Elastomer, Ethylene Propylene Rubber, Hypalon™, Neoprene, Nitrile Butadiene Rubber, Nitrile Butadiene Latex, Polybutadiene Rubber, Styrene-Butadiene Rubber or Latex, Acrylonitrile Butadiene Styrene Resin, Styrene Acrylonitrile Resin, Methyl Methacrylate Acrylonitrile Butadiene Styrene Resin, Methyl Methacrylate Butadiene Styrene Resin, Poly(ethylene terephthalate) Resin, Polystyrene Resin, and Nitrile Resin producers.

This table is not intended to be exhaustive, but rather provides a guide for readers likely to be interested in the revisions to the regulations affected by this action. To determine whether your facility is regulated by this action, you should carefully examine all of the applicability criteria in the promulgated versions of subpart U and JJJ (61 FR 46906 and 61 FR 48208, respectively), as well as in the proposed amendments to the applicability sections (§§ 63.480 and 63.1310) contained in this proposal. If you have any questions regarding the applicability of these amendments to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Electronic Access and Filing Addresses

These proposed amendments, the promulgated texts, and other background information are available in Docket Numbers A–92–44 and A–92–45 or by request from the EPA's Air and Radiation Docket and Information Center (see **ADDRESSES**). These documents can also be accessed through the EPA web site at: http://www.epa.gov/ttn/oarpg. For further information and general questions regarding the TTN, call Mr. Hersch Rorex (919) 541–5637 or Mr. Phil Dickerson (919) 541–4814.

Electronic comments and data may be submitted by sending electronic mail (e-

mail) to: a-and-r-docket@epamail.epa.gov. Submit comments as an ASCII file, avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on diskette in Word Perfect 5.1 or 6.1 or ACSII file format. Identify all comments and data in electronic form by the docket numbers A–92–44 and/or A–92–45. No Confidential Business Information (CBI) should be submitted through electronic mail. Electronic comments may be filed online at many Federal Depository Libraries.

The EPA solicits comment on the specific revisions to the Polymers and Resins Group I and IV rule revisions that are described below and proposed today. The EPA is not seeking comment on portions of the two rules that the Agency is not currently proposing to change.

I. Background on Rules

On September 5, 1996 (61 FR 46906) and September 12, 1996 (61 FR 48208), the EPA issued the ''National Emission Standards for Hazardous Air Pollutants: Group I Polymers and Resins,'' (40 CFR part 63, subpart U) and the ''National Emission Standards for Hazardous Air Pollutants: Group IV Polymers and Resins,'' (40 CFR part 63, subpart JJJ), respectively. On August 26, 1996 (61 FR 43698), just prior to the promulgation of subparts U and JJJ, the EPA proposed amendments to the hazardous organic NESHAP (HON), which subparts U and JJJ both reference and were modeled after, due to similarities in Hazardous Air Pollutant (HAP) emissions and emission controls at affected sources covered by all three rules.

As a result, on November 25, 1996 (61 FR 59849), the EPA published an Advance Notice of Proposed Rulemaking (ANPR) informing the public of the EPA's intent to propose amendments to both the Group I and Group IV Polymers and Resins NESHAP as well. The amendments referred to in that ANPR include the amendments proposed by today's action, which were necessitated by the amendments to the HON, due to cross-reference changes. Because subparts U and JJJ were both modeled after the HON, the EPA determined that many of the amendments that had been made to the HON would also be appropriate for subparts U and JJJ. The EPA has already published several amendments to clarify various aspects of the Group I and Group IV Polymers and Resins NESHAP, in part due to the HON amendments, which were promulgated on January 17, 1997 (62 FR 2722). Readers should see the following **Federal Register** notices for more information: January 14, 1997 (62 FR 1835), which extended the equipment leaks compliance date for both rules; June 6, 1997 (62 FR 30993), which extended the compliance date for equipment leaks at poly(ethylene terephthalate) resin (PET) affected sources; July 15, 1997 (62 FR 37720), which made minor corrections and clarifications to the rules; February 27, 1998 (63 FR 9944), which corrected the effective date of subpart JJJ (Group IV Polymers and Resins) by changing it to February 27, 1998; in keeping with sections 801 and 808 of the Congressional Review Act, changed the compliance dates for new affected sources to February 27, 1998, and changed the compliance date once again for the equipment leak requirements in subpart JJJ, to February 27, 1998; and March 31, 1998 (63 FR 15312), which provided a temporary compliance extension until February 27, 2001 for existing affected sources producing poly(ethylene terephthalate) (PET) using the continuous terephthalic acid (TPA) high viscosity multiple end finisher process.

One of the main purposes of today's action is to incorporate the concepts and new references related to the promulgated HON amendments and to propose changes related to settlement negotiations with industry. It is important to note that the provisions of subparts U and JJJ that cross-reference the HON (or any other regulation) refer to the most recent, promulgated versions of those rules. In a recent rulemaking, on January 17, 1997 (62 FR 2722), the EPA promulgated amendments to the HON, including amendments to portions of the HON that subparts U and JJJ reference.

Those HON amendments that are incorporated by reference into subparts U and JJJ are considered to apply to subpart U and JJJ affected sources. In addition, should the EPA propose future amendments to the HON or other regulations cross-referenced in subparts U and JJJ (e.g., the NESHAP for Source Categories: General Provisions, 40 CFR part 63, subpart A), the most recent, promulgated versions of those rules will be considered to apply subpart U and JJJ affected sources whenever subpart U and JJJ directly cross-reference those regulations. Public comments should be submitted at the time of the proposal of any such amendments, if owners or operators have concerns about how those amendments may affect the application of subparts U and JJJ to their sources.

On November 4, 1996 the Dow Chemical Company (''Dow'') filed petitions for review of the promulgated Polymers and Resins I and IV NESHAP in the U.S. Court of Appeals for the District of Columbia Circuit, *The Dow Chemical Company* v. *EPA*, 96–1417 and 96–1421 (D.C. Cir.). Dow raised over 280 technical issues on the rules' structure and applicability, including questions about the applicability of the HON amendments to subparts U and JJJ. Issues were raised regarding details of the technical requirements, drafting clarity, and structural errors in the drafting of certain sections of the rules. In addition, on December 6, 1996, the Union Carbide Corporation filed a petition for review of the promulgated Polymers and Resins I NESHAP in the U.S. Court of Appeals for the District of Columbia Circuit, *Union Carbide Corporation* v. *EPA*, 96–1413 and Consolidated Cases (D.C. Cir.). Today's proposed amendments address the issues raised by Dow on the promulgated Polymers and Resins I and IV NESHAP, and the issues raised by Union Carbide on the promulgated Polymers and Resins I NESHAP, and include corrections and clarifications to ensure that these rules are implemented as intended. Today's proposed amendments also provide some new provisions that would reduce the burden associated with the recordkeeping and reporting requirements of these rules. For example, as proposed §§ 63.506(a)(1) and (a)(2) and 63.1335(a)(1) and (a)(2) allow records older than 6 months to be stored off-site, and no longer require owners and operators to keep copies of reports that have already been submitted to the EPA Regional Office. This last change is being proposed so that owners and operators that have misplaced copies of reports that have also been submitted to the EPA are not considered to be in violation of the rules.

II. Regulatory Amendments

This section of this preamble will first present a general overview of the types of changes that the EPA is proposing to make to subparts JJJ and U. Following that overview, a section-by-section approach has been taken, describing the EPA's proposed changes, down to the subparagraph level, where deemed appropriate. Parallel sections in subparts U and JJJ (e.g., §§ 63.480 and 63.1310) are first addressed together, and then proposed changes that are unique to one rule or the other are described, for each section of the rules, as necessary.

A. Overview of Proposed Changes

1. HON Changes Directly Incorporated

As mentioned previously, on January 17, 1997 (62 FR 2722), the EPA promulgated revisions to the HON rule. Those revisions to the HON made significant changes to the requirements for process wastewater, heat exchange systems, certain liquid streams in open systems within a chemical manufacturing process unit, and maintenance wastewater, and made minor edits to other sections of the rule. For those HON provisions directly referenced in subparts U and JJJ (see Table 1), the promulgated HON amendments also apply to affected Polymers and Resins I and IV sources. The EPA has evaluated the HON amendments and has determined, with the proposed exceptions noted in this action, that the HON amendments are appropriate for Polymers and Resins I and IV sources. The EPA therefore proposes that the HON amendments be incorporated into the Polymers and Resins I and IV rules, with the exceptions proposed in this notice. For more detailed rationale regarding the HON amendments, see the preamble in the **Federal Register** notice that proposed the HON amendments (61 FR 43698, August 26, 1996).

TABLE 1.—HON SECTIONS DIRECTLY REFERENCED IN SUBPARTS U AND JJJ

HON section referenced	Description of referenced provisions	Subpart U section that references HON	Subpart JJJ section that references HON
§§ 63.101, 63.111, & 63.161	Definitions	§ 63.482(a)	§ 63.1312(a)
§ 63.104	Heat Exchange Systems	§ 63.502(k)	§ 63.1328
§ 63.105	Maintenance Wastewater	§ 63.501	§ 63.1330
§§ 63.113–118	Process Vents	§ 63.485	§ 63.1315
§§ 63.119–123	Storage Vessels	§ 63.484	§ 63.1314
§§ 63.131–149	Wastewater	§ 63.501	§ 63.1330
§ 63.150(g)(3), (g)(5), (h)(3), & (h)(5).	Emissions Averaging provisions for storage vessels & wastewater.	§ 63.503(g)(3), (g)(5), (h)(3), & (h)(5).	§ 63.1332(g)(4), (g)(5), (h)(4), & (h)(5)
§§ 63.160–182	Equipment Leaks	§ 63.502(a)-(j)	§ 63.1331

2. Changes to P&R Sections That Were Modeled After the HON

For the same reason that, after thorough evaluation, the EPA had originally chosen to model subparts U and JJJ after the HON (i.e., due to the similarities in HAP emissions and emission controls amongst HON affected sources and affected elastomers and thermoplastics sources; see the proposal preambles for subparts U and JJJ, 60 FR 30801, 6/12/95, and 60 FR 16090, 3/29/95, respectively), the EPA is proposing amendments to subparts U and JJJ which will make parallel changes to these rules based on the HON amendments.

3. Litigation-Based Changes

As was mentioned in the ''Background'' section of this preamble, on November 4, 1996 the Dow Chemical Company filed petitions for review of the promulgated Polymers and Resins I and IV NESHAP in the U.S. Court of Appeals for the District of Columbia Circuit, *The Dow Chemical Company* v *EPA*, 96–1417 and 96–1421 (D.C. Cir.); and on December 6, 1996, the Union Carbide Corporation filed a petition for review of the promulgated Polymers and Resins I NESHAP in the U.S. Court of Appeals for the District of Columbia Circuit, *Union Carbide Corporation* v *EPA*, 96–1413 and Consolidated Cases (D.C. Cir.). Many of today's proposed amendments address the technical issues and areas in need of clarification that were identified during the litigation settlement process.

4. Clarifyin and Cross-Referencing Changes

Many clarifying and cross-referencing changes were needed in subparts U and JJJ, partly as a result of the previously discussed amendments to the HON (because those amendments included both terminology changes and changes in the location of specific provisions).

In particular, the wastewater provisions in both subparts U and JJJ required a substantial number of changes, in order to smoothly incorporate the numerous changes to the wastewater provisions in the HON. Similar changes were necessary in the other sections of the rule that directly reference HON provisions (e.g., §§ 63.485 and 63.1315).

In addition, a ''snowball'' effect inevitably occurred as other provisions in subparts U and JJJ were amended, requiring additional cross-reference changes and updates throughout both rules. For the most part, these cross-reference changes need little or no explanation. A few of the cross-reference changes are corrections of errors that occurred at promulgation.

Additional changes are being proposed for the sake of clarity and specificity throughout both rules. For example, in several places, the promulgated language implied that inanimate objects (e.g., equipment) would have to follow the rule provisions. In these proposed amendments, the EPA has made an effort to correct this problem throughout both rules, by always stating that it is the ''owner or operator'' (and not the equipment) that must follow the rule provisions.

In the promulgated version of subpart U, in particular, there were also several places in which an appendix to a 40 CFR part 60 or 63 subpart was referenced, without the complete citation being given. The EPA proposes to correct all such instances in these amendments, as well. Grammatical corrections (such as changing ''can'' to ''may,'' where appropriate) are also being proposed in these amendments. Other minor, global changes include:

- Changing the term ''control device'' to ''halogen reduction device,'' where necessary.
- Changing ''must'' to ''shall,'' for the sake of consistency throughout both rules.

The following sections describe the proposed changes to each section of subparts U and JJJ for which amendments are being considered. Changes that are being made to both subparts U and JJJ are described in unison.

B. Applicability— Proposed Changes to §§ 63.480 and 63.1310

1. Changes Common to Polymers and Resins I and IV

Sections 63.480(a)(1) through (4) and 63.1310(a)(1) through (4). The EPA is proposing to restructure these paragraphs in order to provide a better description of what constitutes an ''affected source,'' an ''existing affected source,'' and a ''new affected source.'' The EPA is proposing to add a sentence to the end of §§ 63.480(a)(3) and

63.1310(a)(3), clarifying that §§ 63.480(a)(3)(i) and 63.1310(a)(3)(i) exclusively describe ''brand new'' production sites (i.e., ''greenfield'' sites). If a source meets the criteria for a new source under §§ 63.480(a)(3)(ii) or (iii), or 63.1310(a)(3)(ii) or (iii), or §§ 63.480(i) or 63.1310(i) (which deal with changes or additions at existing plant (i.e., industrial) sites), then §§ 63.480(a)(3)(i) and 63.1310(a)(3)(i) do *not* apply to that source. The proposed new paragraphs at §§ 63.480(a)(4) and 63.1310(a)(4) replace the promulgated paragraph (a)(2), and list emission points and equipment besides elastomer product process units (EPPU) and thermoplastic product process units (TPPU) (e.g., compliance equipment and waste management units) that make up the affected source, in an attempt to clarify that these emission points are part of the affected source *in addition to* the EPPU/TPPUs (which are clearly part of the affected source.) A reference to the proposed equipment list in §§ 63.480(a)(4) or 63.1310(a)(4) has also been added to proposed paragraphs §§ 63.480(a)(2) and (3), and 63.1310(a)(2) and (3), and in other places throughout subparts U and JJJ, where such a reference was determined to be helpful. The EPA is also requesting comments on the idea of incorporating similar changes into §§ 63.1420(a) of subpart PPP, the Polyether Polyols Production NESHAP.

Sections 63.480(a)(3)(i) and 63.1310(a)(3)(i). The proposed language in §§ 63.480(a)(3)(i) and 63.1310(a)(3)(i) clarify that the phrase ''on which construction commenced after June 12, 1995 (or March 29, 1995, for subpart JJJ)'' applies to the entire major source, as opposed to applying to ''each group of one or more EPPU (TPPU)''. The fact that the equipment associated with each EPPU/TPPU is also considered to be part of the affected source is also clarified in these paragraphs.

In addition, the parenthetical ''i.e., a greenfield site'' is meant to clarify that these paragraphs apply to sites at which no industrial activity (demonstrated by an absence of any HAP emission points) occurred prior to the proposal dates of the respective rules. The term ''emission point'' is defined in §§ 63.482(b) and 63.1312(b).

Sections 63.480(a)(5) and 63.1310(a)(5). The EPA is proposing to add paragraphs (§§ 63.480(a)(5) and 63.1310(a)(5)) explicitly stating that area sources and equipment at area sources are not considered to be affected sources under subpart U or JJJ. Although this was implied in the promulgated rule (by only listing EPPUs/TPPUs at ''major source'' plant sites as making up an affected source), the EPA believes that an explicit statement of this nature helps clarify the applicability of this rule.

Sections 63.480(b) and 63.1310(b). One of the many revisions to subparts U and JJJ that are being proposed with today's action that will reduce the recordkeeping burden on owners and operators is contained in these paragraphs. The EPA is proposing to include an additional alternative for EPPUs and TPPUs that do not use or manufacture any organic HAP, which would provide those owners and operators with the choice of either keeping records documenting the fact that their source does not use or manufacture any organic HAP, or of providing such information to the Administrator, at the Administrator's request. The EPA is proposing to provide this alternative, which is similar to that included in the HON amendments to § 63.103(e), because it was never the EPA's intent to impose an ongoing recordkeeping requirement on sources that neither use nor manufacture any organic HAP.

Sections 63.480(c) and 63.1310(c). The EPA is proposing to amend these paragraphs to clarify which equipment is included within the scope of these rules. The promulgated language in §§ 63.480(c) and 63.1310(c) caused confusion and raised concerns over whether other equipment or activities not listed were included in the affected source.

The proposed revisions reflect the promulgated amendments to § 63.100(f) (after which they were originally modeled) and are intended to improve rule clarity by reversing the drafting structure to state that the listed items are included in the affected source, but are not subject to the control requirements of the rule. Based on discussions with industry, the EPA determined that reversing the structure would make these paragraphs more understandable to the regulated community and would reduce the chance of incorrect interpretation. This proposed change is intended to ensure that certain equipment that is part of a subpart U or JJJ affected source does not become covered by future Section 112(j) rules.

Other proposed changes to §§ 63.480(c) and 63.1310(c) include a sentence clarifying that these excluded emission points are not subject to subpart A of part 63 (the General Provisions). The proposed changes to §§ 63.480(c) and 63.1310(c) also add the following equipment to the list of excluded emission points: equipment that does not contain organic HAP, water from testing of deluge systems, and water from testing of firefighting systems.

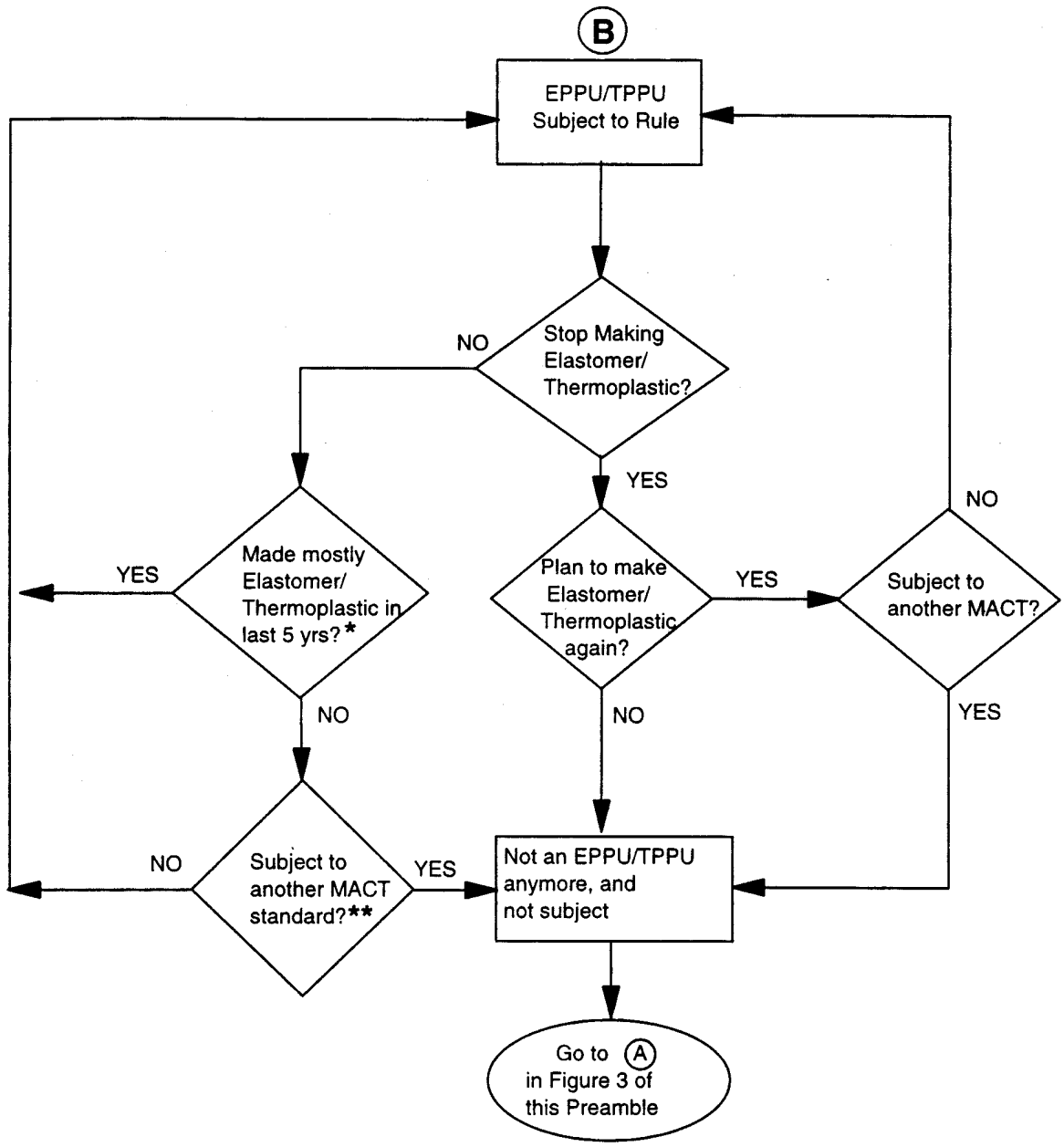
Sections 63.480(f) and 63.1310(f): Primary product and applicability determination, and compliance options, for flexible operation units. The EPA is proposing extensive changes to the primary product determination and applicability criteria (i.e., for determining whether a process unit is an EPPU, a TPPU, or neither) and to the compliance options for flexible operation units in §§ 63.480(f) and 63.1310(f). These changes are summarized by Figures 1 through 4 in this document. However, Figures 1 through 4 are only intended to be illustrative, as they are not comprehensive, and they do not carry any regulatory authority. The proposed changes in §§ 63.480 and 63.1310 are intended to address concerns raised in litigation after the promulgation of subparts U and JJJ, with regard to flexible operation units, in particular. Various scenarios were presented to the EPA that would cause problems under the promulgated rule, such as ''contract manufacturing'' situations in which an owner or operator could not predict what might be produced at a source in the future. The EPA is also requesting comments on the idea of incorporating similar changes into § 63.1420(e) of subpart PPP, the Polyether Polyols Production NESHAP. The changes to § 63.1420(e) would primarily parallel those described below with regard to primary product determination and the flexible operation unit provisions.

Sections 63.480(f) and 63.1310(f). The EPA is proposing to revise these paragraphs so that they provide a more precise introduction to the paragraphs that follow, and in order to reflect the addition of new paragraphs as described below.

Sections 63.480(f)(1) and 63.1310(f)(1). The EPA is proposing to combine promulgated paragraphs §§ 63.480(f)(1), (f)(2), and (f)(3) and 63.1310(f)(1), (f)(2), and (f)(3) to create a single paragraph in each subpart that addresses the initial determination of the primary product. Promulgated paragraphs §§ 63.480(f)(1) and 63.1310(f)(1) appear as proposed paragraphs §§ 63.480(f)(1)(i) and 63.1310(f)(1)(i); promulgated paragraphs §§ 63.480(f)(2) and § 63.1310(f)(2) appear as proposed paragraphs §§ 63.480(f)(1)(iii) and 63.1310(f)(1)(iii); and promulgated paragraphs §§ 63.480(f)(3) and 63.1310(f)(3) appear as proposed paragraphs §§ 63.480(f)(1)(iv) and 63.1310(f)(1)(iv). The EPA is also proposing to add introductory text to §§ 63.480(f)(1) and

63.1310(f)(1), clarifying how the primary product of a process unit is determined, and clarifying that process units that neither use nor manufacture any organic HAP are only subject to §§ 63.480(b) or 63.1310(b) (see discussion above). The proposed requirements under §§ 63.480(f)(1) and 63.1310(f)(1) are illustrated in Figure 1 and Figure 2, which are flowcharts describing the proposed primary product/applicability determination procedures for existing sources and new sources, respectively.

BILLING CODE 6560–50–P

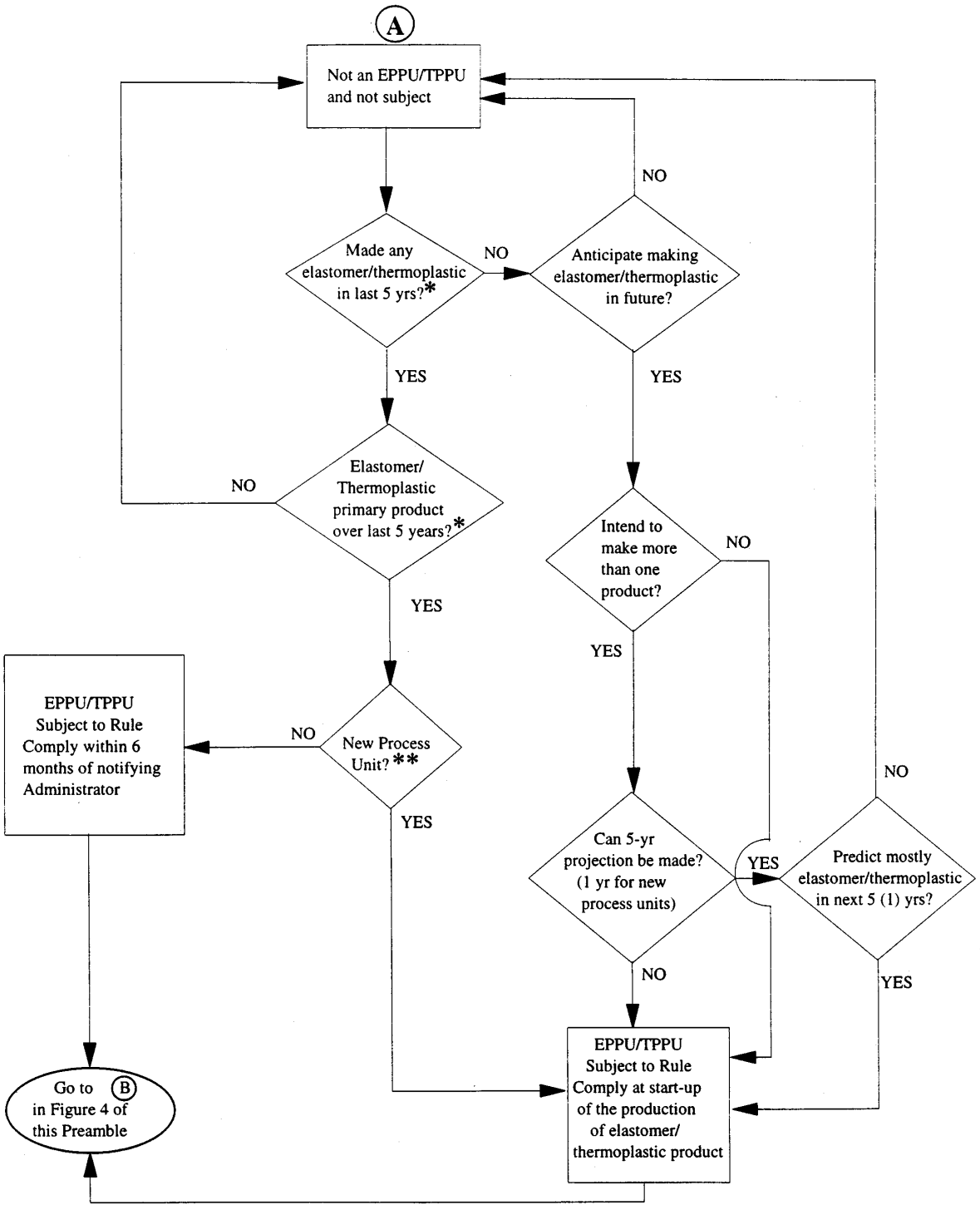


*Or since the unit began the production of any product, whichever is shorter.

**With the exception of 40 CFR 63, subpart GGG (Pharmaceutical MACT).

FIGURE 4. REDETERMINATION FOR EPPUs OR TPPUs SUBJECT TO PROPOSED SECTION 63.480(f)(10) OR 63.1310(f)(10)

(Beginning September 5, 2001 or September 12, 2001)



*Or since the unit began the production of any product, whichever is shorter.

**A new process unit is defined as a process unit that initially began production of any product after 9/5/96.

FIGURE 3. ANNUAL EVALUATION FOR NON-EPPUs OR NON-TPPUs THAT HAVE RECENTLY PRODUCED, OR MAY SOON PRODUCE, ELASTOMER OR THERMOPLASTIC PRODUCTS

BILLING CODE 6560–50–C

Sections 63.480(f)(1)(ii) and 63.1310(f)(1)(ii). A new set of requirements is being proposed under these paragraphs, which would deal with process units that are designed to produce two or more products at the same time. This situation was not addressed at promulgation of these rules. Under the proposed requirement, the primary product is the product for which the process unit has the greatest annual design capacity on a mass basis. If the process unit has the same annual design capacity on a mass basis for two or more products, and at least one of those products is an elastomer/thermoplastic product, then the primary product for that process unit is an elastomer/thermoplastic product.

Sections 63.480(f)(1)(iii) and 63.1310(f)(1)(iii). These proposed paragraphs address primary product determination for flexible operation units, which was previously addressed in promulgated paragraphs §§ 63.480(f)(2) and 63.1310(f)(2). The EPA is proposing to add criteria for determining the primary product for an existing process unit and for a new process unit (definitions for the terms ''existing process unit'' and ''new process unit'' are also being proposed to be added to §§ 63.482(b) and 63.1312(b)). At promulgation, whether the source was new or existing, the owner or operator had to determine primary product on 5 years of ''expected production.'' However, in recognition of the fact that it might be difficult for some owners or operators to predict that far into the future, the proposed amendments only require owners and operators to look one year into the future for new process units. The EPA is also proposing to add a new provision at §§ 63.480(f)(2) and 63.1310(f)(2) for owners or operators of either new or existing flexible operation units for which production cannot be predicted over the required time period (see further discussion below on §§ 63.480(f)(2) and 63.1310(f)(2)).

Sections 63.480(f)(1)(iv) and 63.1310(f)(1)(iv). These proposed paragraphs discuss the consequences of determining that a process unit's primary product is an elastomer/thermoplastic product (as previously addressed in promulgated paragraphs §§ 63.480(f)(3) and 63.1310(f)(3)). In these paragraphs and in several other places throughout the proposed amendments to subparts U and JJJ, the EPA has qualified the term EPPU/TPPU with ''and associated equipment,'' which is listed in §§ 63.480(a)(4) (or 63.1310(a)(4)). This clarification is being proposed because there was some confusion over the difference between an affected source and an EPPU/TPPU after promulgation. In addition, the EPA is proposing changes to this paragraph that remove references to ''the future,'' because other provisions have been added at §§ 63.480(f)(3), (4), (9), and (10), and at 63.1310(f)(3), (4), (9), and (10) that explain more explicitly how the designation of a process unit as an EPPU/TPPU can be removed or re-instated.

Sections 63.480(f)(2) and 63.1310(f)(2). As mentioned earlier, the EPA is proposing the addition of provisions for owners or operators that are not able to predict future production to the extent that is necessary to determine the primary product of a flexible operation unit under §§ 63.480(f)(1)(iii) and 63.1310(f)(1)(iii). Under these proposed provisions, if the owner or operator cannot predict what product will be the primary product of the flexible operation unit for the designated time period, but can predict that the primary product will not be an elastomer/thermoplastic product, the flexible operation unit is designated as not being an EPPU/TPPU.

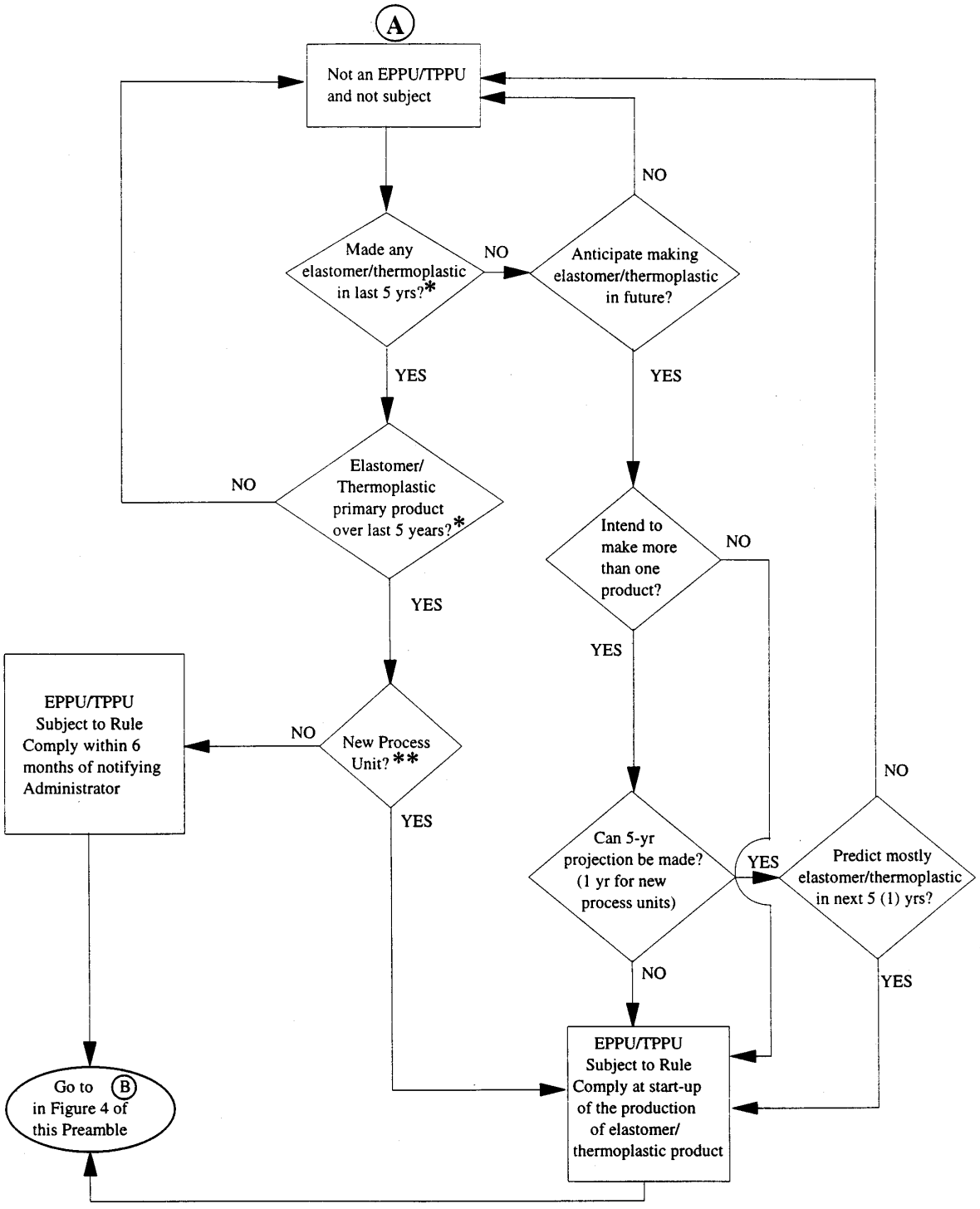
A more complex solution was necessary for owners and operators of flexible operation units who can neither predict the primary product for the designated time period, nor predict that the primary product will not be an elastomer/thermoplastic product. The proposed provisions under §§ 63.480(f)(2)(ii) and 63.1310(f)(2)(ii) address this situation. According to the proposed provisions in §§ 63.480(f)(2)(ii) and 63.1310(f)(2)(ii), in the situation described above, a flexible operation unit that is an existing process unit will be designated an EPPU/TPPU if an elastomer/thermoplastic product has been produced for *five percent (or greater)* of the time since March 9, 1999. If the flexible operation unit is a new process unit, the flexible operation unit will be designated as an EPPU/TPPU if the owner or operator anticipates that an elastomer/thermoplastic product will be produced in that flexible operation unit at any time during the first year of operation of the new process unit.

This concept, of making the primary product determination based on whether or not an elastomer or thermoplastic has been produced at least 5 percent of the time since March 9, 1999 for an existing process unit for which the owner or operator cannot otherwise determine the primary product, or on whether or not the owner or operator anticipates producing any elastomer or thermoplastic products during the first year of production at a new process unit for which the owner or operator cannot otherwise determine the primary product, is a new one. The EPA is particularly interested in receiving public comments on this concept, as a way of handling flexible operation units for which the primary product determination is difficult to make.

Sections 63.480(f)(3) and 63.1310(f)(3). These proposed paragraphs, and proposed paragraphs §§ 63.480(f)(4) and 63.1310(f)(4), reflect the concepts originally promulgated as paragraphs §§ 63.480 (f)(4)(i) through (f)(4)(iii) and 63.1310 (f)(4)(i) and (f)(4)(iii). The original concepts have been modified to improve clarity and to complement other additions proposed for §§ 63.480(f) and 63.1310(f). In order to allow the flexibility that these proposed amendments are offering, as far as whether or not the owner or operator designates their flexible operation unit to be an EPPU/TPPU, the EPA is proposing to add paragraphs that will specify procedures for an annual applicability determination (beginning in September of the year 2001) for non-EPPU's/non-TPPU's that have produced an elastomer/thermoplastic product at any time in the preceding 5-year period or since the date that the unit began production of any product, whichever is shorter. Figure 3 depicts the proposed annual evaluation (after September 2001) for owners or operators of non-EPPUs or non-TPPUs that have recently made an elastomer or thermoplastic product, or are planning to make elastomer or thermoplastic products in the near future. The proposed method for performing this annual applicability determination requires the owner or operator to calculate the percentage of total operating time over which each product that was produced at the flexible operation unit was produced during the applicable time period. If an elastomer/thermoplastic product was the product with the highest percentage of total operating time over that period, then the flexible operation unit is designated as an EPPU/TPPU.

BILLING CODE 6560–50–P

(Beginning September 5, 2001 or September 12, 2001)



*Or since the unit began the production of any product, whichever is shorter.

**A new process unit is defined as a process unit that initially began production of any product after 9/5/96.

FIGURE 3. ANNUAL EVALUATION FOR NON-EPPUs OR NON-TPPUs THAT HAVE RECENTLY PRODUCED, OR MAY SOON PRODUCE, ELASTOMER OR THERMOPLASTIC PRODUCTS

BILLING CODE 6560–50–C

Sections 63.480(f)(4) and 63.1310(f)(4). These proposed paragraphs, and proposed paragraphs §§ 63.480(f)(3) and 63.1310(f)(3), reflect the concepts originally promulgated as paragraphs §§ 63.480(f)(4)(i) through (f)(4)(iii) and 63.1310(f)(4)(i) and (f)(4)(iii). The original concepts have been modified to improve clarity and to complement other additions proposed for §§ 63.480(f) and 63.1310(f). These proposed paragraphs will pertain to owners or operators who are anticipating that their non-EPPU/TPPU process unit will begin manufacturing an elastomer/thermoplastic product in the near future, if the process unit has not produced any elastomer/thermoplastic products in the previous five-year period. These paragraphs will also pertain to process units for which the owner or operator has removed the EPPU/TPPU designation in accordance with proposed §§ 63.480(f)(9) or 63.1310(f)(9), but for which the owner or operator now anticipates future production of an elastomer/thermoplastic product. This proposed provision requires the owner or operator, in the situations described above, to redetermine the primary product for the process unit using the approach outlined in §§ 63.480(f)(1) and (f)(2) and 63.1310(f)(1) and (f)(2), except that, for flexible operation units, the owner or operator must base the prediction on the anticipated production for the five years (one year, for new process units) following the date that production of an elastomer/thermoplastic product will be initiated (instead of basing it on the period following September 5th (September 12th for subpart JJJ) of 1996, or on the period following the initiation of the production of any product).

Sections 63.480(f)(5) and 63.1310(f)(5). This proposed paragraph specifies that owners and operators of flexible operation units that are EPPU/TPPU's shall comply with subpart U or JJJ (as appropriate) for their primary product. Proposed §§ 63.480(f)(5)(i) and (f)(5)(ii) and 63.1310(f)(5)(i) and (f)(5)(ii) offer two exceptions to this requirement: (1) if no organic HAP are used in the manufacture of a particular product, only the provisions in §§ 63.480(b) and 63.1310(b) must be followed during the production of that product; and (2) if a product becomes subject to the National Emissions Standards for Pharmaceuticals (subpart GGG of part 63), the owner or operator need not comply with the provisions of this subpart during the manufacture of that product.

Sections 63.480(f)(6) and 63.1310(f)(6). These proposed paragraphs reflect the concepts originally promulgated as paragraphs §§ 63.480(f)(5)(i) and (f)(5)(ii) and 63.1310(f)(5)(i) and (f)(5)(ii). For flexible operation units, the group status of each emission point (except batch process vents) may be calculated in one of two ways, according to the proposed amendments in §§ 63.480(f)(6) and 63.1310(f)(6). The owner or operator has the option of (1) determining the group status for each emission point based on emission point characteristics when the primary product is being produced, or (2) determining the group status for each emission point based on emission point characteristics when each product produced by the flexible operation unit is being produced.

Sections 63.480(f)(7) and 63.1310(f)(7). The proposed provisions added as §§ 63.480(f)(7) and 63.1310(f)(7) state the requirements for setting parameter monitoring levels for flexible operation units. The proposed amendments allow owners and operators to either establish separate parameter monitoring levels for each product, or to establish a single parameter monitoring level (for each parameter required to be monitored at each device subject to monitoring requirements) for all products, depending on which option was chosen under §§ 63.480(f)(6) or 63.1310(f)(6), for conducting the group determination.

Sections 63.480(f)(8) and 63.1310(f)(8). The proposed provisions in §§ 63.480(f)(8) and 63.1310(f)(8) are largely similar to the promulgated provisions in §§ 63.480(f)(6) and 63.1310(f)(6), except that one promulgated requirement (§§ 63.480(f)(6)(ii)(B) and 63.1310(f)(6)(ii)(B)) was deleted. The deleted requirement was the requirement that the operating time and/or production mass for each product that was used to determine the primary product be reported in the Notification of Compliance Status. The EPA decided that this information was not needed in the Notification of Compliance Status; however, records of this data should be kept in accordance with §§ 63.506(a) and 63.1335(a). In addition, proposed paragraphs §§ 63.480(f)(8)(ii)(C) and (f)(8)(ii)(D) and 63.1310(f)(8)(ii)(C) and (f)(8)(ii)(D) were added, requiring the submittal of information regarding the parameter monitoring levels established according to §§ 63.480(f)(7) and 63.1310(f)(7) in the Notification of Compliance Status, because the EPA determined that this information would be needed in the Notification of Compliance Status.

Sections 63.480(f)(9) and 63.1310(f)(9). In the promulgated rule, procedures were provided for removing the EPPU/TPPU designation from a process unit in which the owner or operator has ceased making all elastomer/thermoplastic products, and in which the owner or operator does not anticipate the production of an elastomer/thermoplastic product in the future (in promulgated §§ 63.480(f)(3)(i) and 63.1310(f)(3)(i)). These provisions have been rewritten for clarity and moved to §§ 63.480(f)(9) and 63.1310(f)(9) in the proposed amendments.

Sections 63.480(f)(10) and 63.1310(f)(10). Because 40 CFR part 63 standards are developed using industry-specific considerations, the regulations often contain requirements tailored specifically to the particular processes used in the regulated industry. The primary product applicability approach is one used in many MACT standards to ensure that the process unit is only subject to one MACT standard, and that the standard to which it is subject is the one for the product that is produced in the process unit most of the time. If the production pattern changes and the process unit begins producing another product for the majority of the time, and the new primary product is subject to another MACT standard, the EPA believes it is appropriate that the unit be subject to the other MACT standard, rather than being subject to subpart U or JJJ.

Therefore, the EPA is proposing to add §§ 63.480(f)(10) and 63.1310(f)(10), which require the owner or operator to conduct a redetermination of applicability of these rules to a flexible operation unit ''whenever changes in production occur that could reasonably be expected to change the primary product'' from an elastomer or thermoplastic product to a product that would make the process unit subject to another subpart of part 63. Figure 4 illustrates the redetermination process for EPPUs or TPPUs that have made ''changes in production * * * that could reasonably be expected to change the primary product.''

BILLING CODE 6560–50–P

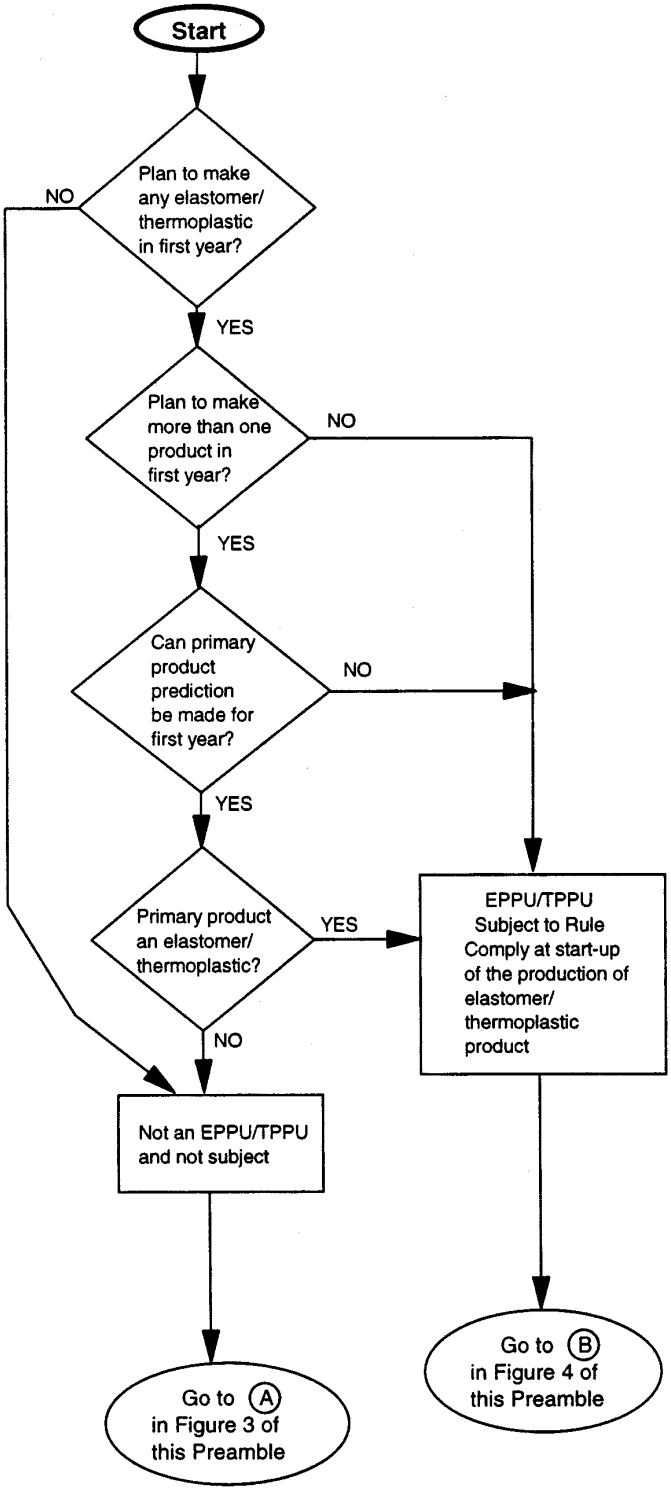


FIGURE 2. NEW SOURCE INITIAL DETERMINATION

BILLING CODE 6560–50–C

This redetermination of applicability is based on the ''primary product'' of the flexible operation unit being the ''product with the highest percentage of total operating time'' over the preceding five years, or since the process unit began producing any product, whichever is shorter. Given the length of time over which the primary product is determined for flexible operation units, the EPA believes that owners and operators will have ample time and opportunity to come into compliance with other NESHAP, should they become subject to other NESHAP as a result of the redetermination of primary product.

In addition, under the proposed provisions in §§ 63.480(f)(10)(iii) and 63.1310(f)(10)(iii), if a process unit (in which a elastomer/thermoplastic product is no longer the primary product, after a change in production) is subject to another subpart of part 63, that process unit remains designated as an EPPU or TPPU until the date upon which the process unit is required to be in compliance with the provisions of the other subpart to which it is subject.

Sections 63.480(g) and (h) and 63.1310(g) and (h): Storage Vessel Ownership and Recovery Operations Equipment Ownership. The EPA is proposing clarifying changes to make the wording and structure of these paragraphs parallel, because the EPA believes that this will make the provisions of each clearer and easier to follow. Specifically, the proposed revisions would make the wording of §§ 63.480(g)(6) and (g)(8) and 63.1310(g)(6) and (g)(8); and §§ 63.480(h)(6) and (h)(7) and 63.1310(h)(6) and (h)(7) parallel, respectively. This change is similar to the HON amendments to § 63.100(g), (h), and (i).

In addition, one of the conditions under which an owner or operator would have to re-determine the assignment of a particular storage vessel has been removed. The rule no longer requires that an assignment redetermination be performed whenever ''there is a change in the use of the storage vessel that could reasonably be expected to change the predominant use of that storage vessel.'' It is the EPA's position that it is not necessary to require a storage vessel assignment redetermination unless the storage vessel has begun receiving material from (or sending material to) a process unit that was not included in the initial determination, or has ceased to receive material from (or send material to) a process unit that was included in the initial determination. Unless one of the above-listed circumstances has occurred, it is highly unlikely that the assignment of a storage vessel to a particular process unit will have become inappropriate.

Sections 63.480(i) and 63.1310(i). The EPA is proposing a number of changes in §§ 63.480(i) and 63.1310(i). The most significant changes clarify the requirements that apply to additions of entire process units and individual emission points, and clarify the compliance dates for newly subject process units or equipment. In addition, other changes are being proposed to clarify what the EPA considers to be ''process changes,'' and to clarify the recordkeeping and reporting requirements associated with a process change.

Sections 63.480(i)(1)(i) and (ii) and 63.1310(i)(1)(i) and (ii). These revisions are being proposed because the promulgated drafting and structure in §§ 63.480(i) and 63.1310(i) caused confusion as to the equipment that would be subject to the new source requirements if the conditions in either §§ 63.480(i)(1)(i) or (ii) or 63.1310(i)(1)(i) or (ii) were met. Before discussing the specific changes, an explanation is needed regarding a fundamental basis of these provisions. It is not possible for a single affected source to be both subject to new source requirements (for any portion of the affected source) and to existing source requirements (for any other portion of the affected source). An affected source must be either a new affected source, with all of it's equipment subject to the new source requirements, or it must be an existing affected source, with all of it's equipment subject to the existing source requirements. The proposed changes to §§ 63.480(i)(1)(i) and (ii) and 63.1310(i)(1)(i) and (ii) are intended to clarify this situation.

First, the EPA is proposing to amend these paragraphs to clarify that a group of one or more newly added EPPU/TPPUs (making the same primary product), including their associated equipment, constitute a single ''addition'' to a plant site. In §§ 63.480(i)(1)(i) and 63.1310(i)(1)(i), the proposed languages makes it clear that the group of EPPU/TPPUs (and associated equipment) are a new affected source, provided that the applicable criteria are met. The applicable criteria consist of two separate ''sets'' of conditions, and one condition from each set must be met in order for the group of EPPU/TPPUs and their associated equipment to be considered a new source. The first set, contained in paragraphs §§ 63.480(i)(1)(i)(A) and (B) and 63.1310(i)(1)(i)(A) and (B), are related to the date of construction or reconstruction. If the construction of the group of EPPU/TPPUs commenced after June 12, 1995, then the condition in paragraph (A) would be met. If a group of one or more process units was originally constructed or reconstructed after June 12, 1995 (under subpart U) or after March 29, 1995 (under subpart JJJ), and then later began the production of an elastomer/thermoplastic product and became an EPPU/TPPU, then the condition in paragraph (B) would be met. This is a clarification from the promulgated requirements, which only addressed the date of the construction of the ''addition.'' The only proposed changes to the second set of criteria, which are contained in paragraphs §§ 63.480(i)(1)(i)(C) and (D) and 63.1310(i)(1)(i)(C) and (D), are related to the clarification what constitutes an ''addition,'' as discussed above.

The proposed amendments to §§ 63.480(i)(1)(ii) and 63.1310(i)(1)(ii) include the same changes described above for §§ 63.480(i)(1)(i) and 63.1310(i)(1)(i) related to the clarification of the ''addition.'' In addition, a new provision is being added to paragraphs §§ 63.480(i)(1)(ii) and 63.1310(i)(1)(ii) to specify the compliance date for a group of process units that have become EPPU/TPPUs due to a change in production that has made an elastomer/thermoplastic product the primary product of the process unit. In the proposed paragraphs §§ 63.480(f)(3) and 63.1310(f)(3), owners or operators of flexible operation units that are not EPPUs or TPPUs, but that continue to produce an elastomer/thermoplastic product are required to annually conduct a primary product determination based on historical production levels. If production has shifted such that an elastomer/thermoplastic product has become the primary product of a flexible operation unit, then the unit is designated an EPPU/TPPU and proposed §§ 63.480(f)(3)(iii) and 63.1310(f)(3)(iii) require that the owner or operator notify the EPA of this re-designation within 45 days of making the determination. The new provisions in §§ 63.480(i)(1)(ii) and 63.1310(i)(1)(ii) specify that owners or operators in the situation described above must be in compliance with the existing source requirements within 6 months from the date of the notification.

Sections 63.480(i)(2) and 63.1310(i)(2). Similar changes are being proposed for these paragraphs as those described above for §§ 63.480(i)(1) and 63.1310(i)(1). In §§ 63.480(i)(2)(i)(A) and 63.1310(i)(2)(i)(A), rather than referring to the definition of ''reconstruction'' in

subpart A, the proposed text refers to a newly proposed definition of ''reconstruction,'' in §§ 63.482(b) and 63.1312(b). The EPA is also proposing to clarify, in §§ 63.480(i)(2)(ii) and 63.1310(i)(2)(ii), that the compliance dates are July 31, 1997 for most equipment leaks and September 5, 1999 for most other emission points under subpart U, and are February 27, 1998 for most equipment leaks and September 12, 1999 for most other emission points under subpart JJJ. Please note that, as mentioned earlier, the compliance date for equipment leaks at PET affected sources was temporarily extended to no later than September 12, 1999 (62 FR 30993, June 6, 1997). Specifying the compliance dates in §§ 63.480(i)(2)(ii) and 63.1310(i)(2)(ii) eliminates the need for the promulgated paragraphs under §§ 63.480(i)(2)(iii) and 63.1310(i)(2)(iii). The EPA is proposing to remove these paragraphs and their subparagraphs, which specify requirements for submitting ''compliance schedules.'' The EPA believes that the requirement to create and submit compliance schedules is not necessary under subparts U and JJJ. Provided that the existing source is in compliance with the applicable requirements in subpart U or JJJ on the compliance date, the EPA has no need to know in advance how the owner or operator foresees bringing the existing affected source into compliance by the appropriate date. The burden is on the owner or operator to have a compliance plan that will guarantee that their source will be in compliance by the date given in subpart U or JJJ, for a particular emission point.

Promulgated §§ 63.480(i)(3) and 63.1310(i)(3). The EPA is proposing to remove the promulgated paragraphs §§ 63.480(i)(3) and 63.1310(i)(3), because it has been determined that §§ 63.480(i)(1) and (2) and 63.1310(i)(1) and (2) cover all possible scenarios (i.e., there is no way for a Group 2 emission point to become a Group 1 emission point without a process change or the addition of an EPPU/TPPU or emission point to the source.)

Sections 63.480(i)(5) and 63.1310(i)(5). The EPA is proposing a minor amendment to these paragraphs that would result in a decrease in burden on owners and operators. In these proposed amendments, a change in production capacity is only considered to be a ''process change'' if the change is an *increase* in production capacity.

Sections 63.480(i)(6) and 63.1310(i)(6). The proposed addition of these paragraphs will direct owners and operators to the newly proposed reporting requirements in §§ 63.506(e)(7)(v) and 63.1335(e)(7)(iv), which apply to additions and process changes. For the sake of completeness, the EPA is proposing to add an entire subparagraph describing the reporting requirements that apply to owners and operators as a result of both promulgated and proposed provisions in §§ 63.480(i)(1) and (i)(2) and 63.1310(i)(1) and (i)(2), at §§ 63.506(e)(7)(v) and 63.1335(e)(7)(iv), as will be discussed in greater detail in the section of this preamble that discusses proposed changes to §§ 63.506 and 63.1335.

Sections 63.480(j)(1) through (4) and 63.1310(j)(1) through (4). These proposed paragraphs contain the general operational requirements for compliance during periods of start-up, shutdown, malfunction, or non-operation of an affected source (or portion thereof). These proposed paragraphs largely mirror the promulgated HON paragraphs § 63.102(a)(1) through (4), with three primary exceptions.

First, the term ''emission limitation'' (as described in Section 302(k) of the Act) replaces the term ''provision'' throughout these proposed paragraphs. This proposed change addresses a concern on behalf of industry regarding exactly what the term ''provision'' covered (or, in other words, which regulatory requirements did *not* apply during periods of start-up, shutdown, malfunction, or non-operation.) The definition of ''emission limitation'' that is contained in section 302(k) of the Act is:

> A requirement * * * which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirement relating to the operation or maintenance of a source to assure continuous emission reduction and any design, equipment, work practice, or operational standard promulgated under the Act.

The EPA has determined that the term ''emission limitation,'' as defined under section 302(k) of the Act, is sufficiently broad to encompass any requirements that the owner or operator might need relief from, during a period of start-up, shutdown, malfunction, or non-operation.

Second, the fact that emission limitations do not apply during periods of start-up, shutdown, or malfunction is clearly spelled out in the proposed language in §§ 63.480(j)(1) and 63.1310(j)(1). The promulgated versions of subparts U and JJJ were not clear on this point.

Finally, proposed §§ 63.480(j)(3) and 63.1310(j)(3) clearly state the requirements for operating emissions control equipment and monitoring equipment during periods of start-up, shutdown, and malfunction. The promulgated rules and the HON were silent on the issue of monitoring during a start-up, shutdown, or malfunction, while these proposed amendments provide direct guidance on the control requirements and monitoring requirements during a period of start-up, shutdown, or malfunction.

These proposed amendments to subparts U and JJJ depart from the amended HON by specifically requiring monitoring during periods of start-up, shutdown, and malfunction. It is the EPA's position that requiring monitoring during these periods will provide the EPA with more information concerning whether or not Start-up, Shutdown, and Malfunction Plans were followed, and will provide the EPA with valuable information for assessing the adequacy of a source's Start-up, Shutdown, and Malfunction Plan for future situations.

The proposed paragraphs contain a provision allowing owners or operators to turn off monitoring equipment during start-up, shutdowns, or malfunctions, if the owner or operator can demonstrate that the monitoring equipment would be damaged or destroyed during those periods, as long as such a provision is included in the source's Start-up, Shutdown, and Malfunction Plan according to the procedures specified in the proposed requirements in §§ 63.506(b)(1), 63.1335(b)(1), 63.506(e)(3), and 63.1335(e)(3). The proposed procedures in §§ 63.506(b)(1) and 63.1335(b)(1) require that the owner or operator first submit a Precompliance Report or ''supplement to a Precompliance Report,'' demonstrating to the Administrator that the monitoring system would be damaged or destroyed if not shut off during a start-up, shutdown, or malfunction. This will allow the Administrator to have the opportunity to object to the inclusion of such a provision in the source's Start-up, Shutdown, and Malfunction Plan, if such a provision seems to be unwarranted or insufficiently supported in the Precompliance Report or supplement to the Precompliance Report. Under these proposed amendments, unless the Administrator objects to a request submitted in the Precompliance Report (or a supplement to the Precompliance Report) within 45 days of its receipt, that request will be deemed ''approved.''

2. Changes Unique to Polymers and Resins I

Section 63.480(d). In these proposed amendments, paragraphs (d)(2) and

(d)(3) in § 63.480 have been removed. The EPA believes that the provisions in § 63.480(d)(3) are not applicable to subpart U affected sources, because such facilities (i.e., solvent reclamation, recovery, or recycling operations at hazardous waste treatment, storage, and disposal facilities) are typically not co-located with EPPU. Those provisions were inadvertently incorporated with other HON provisions from § 63.100(j) into § 63.480(d) at promulgation. The EPA is also proposing to remove paragraph (d)(2), due to the fact that § 63.480(b) and (c)(1) (as proposed) address EPPUs and emission points not containing or using any organic HAP. With today's action, the EPA is requesting comments on the proposed removal of § 63.480(d)(2) and (d)(3) from subpart U.

Section 63.480(e). The EPA is proposing to edit paragraph (e) in § 63.480, to replace the incorrect references to ''subpart V'' with the correct references to subpart JJJ.

Proposed § 63.480(i)(3) and (i)(4). The EPA is proposing to amend the promulgated paragraph § 63.480(i)(4) (as § 63.480(i)(3) and (i)(4)), to specifically spell out to which emission points each applies (i.e., surge control vessels and bottoms receivers that become subject to § 63.170, or compressors that become subject to § 63.164). In § 63.480(i)(4), the EPA is also proposing to specifically refer to the compliance dates for compressors, as they are laid out in § 63.481(d).

3. Changes Unique to Polymers and Resins IV

Section 63.1310(e). The proposed language in this paragraph is intended to clarify that if only some emission points from a unit operation are regulated by another Maximum Achievable Control Technology (MACT) standard, then those particular emission points will remain subject to that other MACT standard. Therefore, instead of discussing ''unit operations,'' the proposed language discusses ''emission points from unit operations,'' so that there is no confusion over whether the emission points or the entire ''unit operation'' is subject to that other MACT standard.

Section 63.1310(i)(2)(ii). The EPA is proposing to add a condition to the list of circumstances that are considered to be ''process changes'' under § 63.1310(i)(2)(ii). The circumstance that the EPA is proposing to add in these amendments is a change resulting in baseline emissions from continuous process vents in the collection of material recovery sections at an existing affected source producing PET using a continuous dimethyl terephthalate process going from less than or equal to 0.12 kg organic HAP per Mg of product to greater than 0.12 kg of organic HAP per Mg of product. This proposed change in emission level is similar to changing from Group 2 to Group 1; it signifies that the owner or operator is now required to apply controls, so the EPA believes that adding this new condition to the list of circumstances that are considered to be ''process changes'' is appropriate.

Section 63.1310(i)(3). The EPA is proposing to change subpart JJJ so that surge control vessels and bottoms receivers are handled in the same manner for subpart JJJ, subpart U, and the HON. The EPA is proposing to consider surge control vessels and bottoms receivers to be subject to the requirements of subpart H of the HON, instead of considering them to be storage vessels and subject to the requirements in subpart G of the HON, as was done at promulgation of subpart JJJ. This proposed change would make subpart JJJ consistent with subpart U, with regard to how it handles surge control vessels and bottoms receivers, but it will not cause any change in the actual control requirements for surge control vessels and bottoms receivers. As a result, the EPA is proposing to add § 63.1310(i)(3), and to make other changes (to § 63.1312, in particular) as discussed elsewhere in this preamble.

Section 63.1310(i)(4). The EPA is proposing to clarify § 63.1310(i)(4) by referring specifically to compressors and by referring to the compliance dates for compressors in § 63.1311(d).

C. Compliance Dates and Relationship to Other Rules— Proposed Changes to § 63.481 and 63.1311

1. Changes Common to Polymers and Resins I and IV

It is anticipated that final action on the changes being proposed in today's document will occur shortly before the compliance dates for the non-equipment leak provisions of both subparts U and JJJ, as described in § 63.481 and 63.1311. The EPA believes that the changes proposed in today's action can generally be classified as changes to improve clarity and to increase flexibility in the testing, monitoring, reporting, and recordkeeping requirements in subparts U and JJJ. The EPA does not believe that these changes will cause a change in the compliance status of a facility. The EPA also does not believe that these amendments will effect major decisions that must be made by an owner or operator well in advance of the compliance date, such as whether a process is subject to the rule, or whether controls are required for an emission stream. Therefore, today's action does not include a proposed extension of the September 1999 compliance dates for existing sources.

However, while the EPA believes the proposed changes do not necessitate additional compliance time, the Agency recognizes that the possibility exists that there could be specific provisions in today's proposed changes that might effect the compliance status of one or more facilities. Nonetheless, the EPA is requesting comments on whether the proposed changes could place owners and operators in jeopardy of not being in compliance in September 1999, solely due to a proposed regulatory change. The EPA requests that commenters provide information on the additional time that they believe they would need, and the basis for the requested additional time period. In addition, the commenter should identify the specific rule change that is being requested and provide actual examples of how the rule change could cause a facility to be out of compliance when the September 1999 compliance date arrives, or when the changes are promulgated, whichever occurs later.

Title of § 63.481 and 63.1311. Because the Notification of Compliance Status is the report in which compliance (or non-compliance) is ultimately documented, the EPA has decided that it is not necessary for owners or operators of affected sources to submit a compliance schedule. For this reason, the EPA is proposing to remove the term ''compliance schedule'' throughout both rules (including the titles for § 63.481 and 63.1311), and to remove all requirements to report information in a ''compliance schedule'' throughout both rules. The titles of § 63.481 and 63.1311 are proposed to change from ''Compliance schedule and relationship of this rule to existing applicable rules,'' to ''Compliance dates and relationship of this rule to existing applicable rules.''

Sections 63.481(d) and 63.1311(d). The EPA is proposing changes to §§ 63.481(d) and 63.1311(d) that will allow owners and operators to request compliance extensions for equipment leaks in the same manner in which they would request a compliance extension for any other emission point. The promulgated version of §§ 63.481(d) and 63.1311(d) referred owners and operators to section 112(i)(3)(B) of the Act (via § 63.182(a)(6) of subpart H) for instructions on how to request a compliance extension for an equipment leak. The EPA found that the requirements in §§ 63.481(e) and 63.1311(e) satisfied the requirements in

section 112(i)(3)(B) of the Act; therefore, the EPA is proposing to simplify subparts U and JJJ by providing the same requirements (those in §§ 63.481(e) and 63.1311(e)) for owners and operators requesting a compliance extension for any emission point (i.e., for equipment leaks or other emission points).

Sections 63.481(d)(2)(iv) and 63.1311(d)(2)(iv). The EPA is proposing a clarifying edit to §§ 63.481(d)(2)(iv) and 63.1311(d)(2)(iv), to ensure that owners and operators realize that they only need to send their request for a compliance extension (for compressors) to the appropriate U.S. EPA Regional Office.

Sections 63.481(e) and 63.1311(e): Request for Compliance Extension. The EPA is proposing to amend §§ 63.481(e) and 63.1311(e) to allow requests for compliance extensions to be submitted in a separate submittal (as opposed to only in either the operating permit application or the Precompliance Report), and to allow requests for extensions to be made up until 120 days prior to the applicable compliance dates (at promulgation, the request had to be made one year in advance of the compliance date—i.e., when the Precompliance Report was due).

Furthermore, §§ 63.481(e)(3) and 63.1311(e)(3) are new paragraphs that are modeled after § 63.151(a)(6)(iv), proposing to allow a request for a compliance extension later than 120 days prior to the compliance date, under special circumstances. An example of such circumstances (''beyond reasonable control of the owner or operator'') would be if the owner or operator signed a contract to have control equipment installed by a date much earlier than the compliance date, but the contractor responsible for providing or installing that control equipment was not able to deliver the equipment and/or install it before the compliance date. The proposed addition of §§ 63.481(e)(3) and 63.1311(e)(3) would allow the owner or operator to request a compliance extension during the last 120 days before the compliance date, if the need arose during that 120 day period and if the need was due to circumstances beyond the reasonable control of the owner or operator. Submission of a compliance extension request would not, however, stay the applicability of subparts U and JJJ to the applicant during the pendency of the request.

The EPA is proposing these revisions to be consistent with the HON amendments to § 63.151(a)(6), and in recognition of the fact that review of most requests for compliance extensions can be completed within 120 days, and it is unlikely that the EPA would need 12 months to complete the review of such a request. In addition, the EPA is proposing to allow submittal of extension requests up to the compliance date in recognition that unforeseen difficulties, such as construction or operational difficulties can arise in the last moments of compliance planning. The proposed provisions in §§ 63.481(e)(3) and 63.1311(e)(3) are also considered necessary because it is unlikely that these proposed revisions will be final more than 120 days prior to the September 1999 compliance dates for certain control requirements. Any changes in the wording or requirements of the final rule could affect compliance planning for a source. Therefore, the EPA believes that it is necessary to provide owners and operators with some opportunity to apply for compliance extensions after the date that is 120 days prior to the compliance date.

Sections 63.481(k) and 63.1311(m). In the promulgated rule (§§ 63.481 and 63.1311), the EPA attempted to address the problem of overlapping requirements by specifying which provisions apply for each of the known cases of overlapping rules. It has come to the EPA's attention, however, that there was another broad category of overlapping Resource Conservation and Recovery Act (RCRA) requirements that were not addressed in the promulgated versions of subparts U and JJJ. In today's amendments, the EPA is proposing provisions to allow the use of certain RCRA-required monitoring, recordkeeping, and reporting provisions to satisfy the corresponding requirements in subparts U and JJJ. These proposed provisions would be added as §§ 63.481(k) and 63.1311(m).

Absent the proposed provisions, subparts U and JJJ would require the owner or operator to comply with the applicable monitoring, recordkeeping, and reporting provisions of subpart U or subpart JJJ, as well as those from RCRA rules, in cases where the same control device (e.g., an incinerator or adsorber) is subject to a RCRA rule and would be used to comply with the requirements for the non-wastewater provisions of subpart U or JJJ (through cross-reference to the HON wastewater provisions, this overlap problem was not an issue for wastewater streams at promulgation). Compliance with the applicable monitoring, recordkeeping, and reporting requirements of subpart U or JJJ as well as those in a RCRA rule would significantly increase the cost of compliance demonstrations without providing a corresponding environmental benefit. Therefore, to reduce this burden, the EPA is proposing to allow an owner or operator to elect to use the monitoring, recordkeeping, or reporting requirements in 40 CFR parts 260 through 272, instead of those otherwise required under subparts U and JJJ.

The EPA considers this proposed consolidation of overlapping monitoring, recordkeeping, and reporting requirements to be appropriate because the RCRA air rules and subparts U and JJJ have the same objective and monitor similar operational characteristics of control devices. In general, the RCRA requirements tend to require more frequent monitoring, and the retention of more detailed information. Therefore, it is possible to use the RCRA data and reports to demonstrate compliance with the monitoring, recordkeeping, and reporting requirements of subparts U and JJJ, for certain control devices.

Sections 63.481(l) and 63.1311(n). The EPA is proposing to add a paragraph at §§ 63.481(l) and 63.1311(n) to address instances in which requirements from other part 63 regulations overlap for the same heat exchange system(s) or waste management unit(s) that are subject to subpart U or JJJ. Under the proposed additions of §§ 63.481(l) and 63.1311(n), compliance with subpart F (or another subpart of part 63 that requires compliance with § 63.104) for heat exchange systems, and/or compliance with subpart G (or another subpart of part 63 that requires compliance with §§ 63.132 through 63.147) for waste management units, constitutes compliance with the heat exchange system requirements and/or waste management unit requirements in subpart U or JJJ.

2. Changes Unique to Polymers and Resins I

Section 63.481(d)(5) and (6). The EPA is proposing to change the compliance date to September 5, 1999 (instead of September 6, 1999) in both of these paragraphs so that they are consistent with other provisions in subpart U (e.g., § 63.480(i)(3)).

Section 63.481(j). The proposed addition of § 63.481(j) mirrors a provision that was promulgated in subpart JJJ (as § 63.1311(k)). This provision states that sources that were previously subject to 40 CFR part 60, subpart VV and that become subject to subpart JJJ will no longer be subject to the provisions in 40 CFR part 60, subpart VV on the compliance dates specified in subpart JJJ . A similar provision should have also been

included in subpart U at promulgation, but was overlooked at that time; therefore, the EPA proposes adding this provision at § 63.481(j).

3. Changes Unique to Polymers and Resins IV

Section 63.1311(d)(3) and (d)(5). The EPA is proposing to change the compliance date in § 63.1311(d)(3) from September 14, 1998 to September 12, 1998, and to change the compliance date in § 63.1311(d)(5) from September 13, 1999 to September 12, 1999 in order to be consistent with other provisions throughout subpart JJJ (e.g., § 63.1311(b) and (c)).

Section 63.1311(i)(3). The EPA is proposing to add this paragraph to clarify the intent of the promulgated rule that existing affected sources producing PET that are subject to and complying with the ethylene glycol concentration limits from the Polymers Manufacturing NSPS (i.e., 40 CFR 60.562–1(c)(1)(ii)(B) or 60.562–1(c)(2)(ii)(B)) shall continue to comply with those requirements, and not the requirements of subpart JJJ.

D. Definitions—Proposed Changes to §§ 63.482 and 63.1312

1. Changes Common to Polymers and Resins I and IV

In the definition section of subparts U and JJJ, several changes were necessitated as a result of changes to the HON definitions that they cross-referenced. Paragraphs §§ 63.482(a) and 63.1312(a) contain a list of terms for which definitions are ''borrowed'' from other part 63 subparts; specifically subpart A (General Provisions) and subparts F, G, and H (HON). Many of the referenced HON definitions include references to specific HON sections or to HON tables. The EPA has concluded that this situation could cause confusion when those definitions are applied to subparts U and JJJ. Therefore, the EPA has removed several terms from the lists in §§ 63.482(a) and 63.1312(a) and has defined them in §§ 63.482(b) and 63.1312(b). This proposed change is intended to clarify the applicability of the definitions to subpart U and JJJ affected sources, and the EPA does not intend for any of the newly proposed definitions to change the meaning of the terms that are being defined in §§ 63.482(b) and 63.1312(b), instead of cross-referenced through §§ 63.482(a) and 63.1312(a). Examples of such terms include ''maximum true vapor pressure'', ''flexible operation unit,'' and ''continuous record.''

In addition, the EPA determined that references to several terms were not needed because these terms are not used in subparts U and/or JJJ. The EPA is also proposing to remove these terms from the list in §§ 63.482(a) and 63.1312(a). Examples include ''reference control technology for process vents'' and ''fixed roof.'' Also, due to changes in the HON, the EPA is proposing to remove several terms that were referenced at promulgation. For example, the promulgated HON amendments no longer contain a definition of the term ''point of generation,'' which was cross-referenced by §§ 63.482(a) and 63.1312(a) at promulgation of subparts U and JJJ. Finally, the EPA is proposing to remove cross-references to certain subpart A and HON definitions, and to instead provide definitions that are specific to subpart U and/or JJJ, to improve clarity in subparts U and JJJ. Every definition discussed below represents a proposed change from the promulgated rules.

Aggregate batch vent stream. In this definition, the EPA proposes to remove the last phrase (''before being routed to a control device that is in continuous operation'') to remove any implication that the control device defines the vent stream. In addition, the EPA is proposing to add the concept of hard-piping or otherwise connecting batch process vents together (to create continuous flow) to the definition of an aggregate batch vent stream.

Annual Average Batch Vent Concentration. The EPA is proposing to add a definition for this term for the sake of specificity in the rule, and to distinguish it from the term ''annual average concentration,'' which applies to concentrations in wastewater streams. The newly proposed term (''annual average batch vent concentration'') is used only with regard to batch vents, whereas the promulgated term ''annual average concentration'' was used in reference to both batch vents and wastewater streams. This proposed separation of terms should reduce the confusion caused by using the same term for both situations in the promulgated rules.

Annual Average Batch Vent Flow Rate. The EPA is proposing to include two separate definitions for ''annual average flow rate,'' and ''annual average batch vent flow rate,'' to minimize confusion between the applicability of the two terms to process wastewater (for which the term ''annual average flow rate'' is used) as opposed to batch process vent streams (for which the term ''annual average batch vent flow rate'' is used).

''Annual Average Concentration'' and ''Annual Average Flow Rate''. The EPA is proposing to add definitions for these terms, and to remove these terms (which were listed as being defined in § 63.111 of subpart F) from the list of cross-referenced definitions in the promulgated versions of subparts U and JJJ. The newly proposed definitions of these terms in §§ 63.482(b) and 63.1312(b) point to the HON requirements, but remind owners and operators to apply the exceptions listed in §§ 63.501 and 63.1330 to the wastewater provisions in the HON.

''Average Batch Vent Concentration''. The addition of this definition is being proposed because it became apparent that terms such as ''average batch concentration'' and ''average concentration'' were used inconsistently throughout the rules. In today's proposed amendments, the EPA has eliminated the use of the terms ''average batch concentration'' and ''average concentration'' throughout subparts U and JJJ, and has replaced those terms with the more specific term ''average batch vent concentration'' throughout both proposed rules.

''Average Batch Vent Flow Rate''. The EPA is proposing to define this term both for the sake of accuracy and specificity in these rules, and in order to distinguish it from the term ''average flow rate,'' which is not used in subpart U or JJJ, but is used in the wastewater provisions in the HON, which these subparts reference. ''Average flow rate'' is defined in § 63.111 of subpart G.

''Batch Cycle Limitation''. The EPA is proposing to remove the whole concept of the ''batch cycle limitation'' (per se) and replace it with a ''batch mass input limitation.'' Therefore, the EPA is proposing to remove this definition from subparts U and JJJ. See Section II.I of this notice for more details regarding the proposed change to a batch mass input limitation.

''Batch Front-end Process Vent'' and ''Batch Process Vent''. The EPA is proposing several changes to these definitions. The first is to replace the term ''point of emission'' with the term ''process vent'' throughout the definitions of ''batch front-end process vent'' and ''batch process vent,'' because the only emission points that are considered to be batch front-end process vents or batch process vents are process vents. The second proposed change to these definitions is to restructure them so that it is clear that if a process vent has less than 225 kilograms per year (kg/yr) of organic HAP emissions, then that process vent is not a batch process vent. Finally, the EPA is proposing to edit these definitions to add specific references to where and how the annual organic HAP emissions are measured to determine whether or not at least 225

kg/yr are being emitted from the process vent. Similar changes are also being proposed in the definitions of ''Group 1 Batch Front-end Process Vent'' and ''Group 1 Batch Process Vent,'' in subparts U and JJJ, respectively, as described in more detail below.

''Batch Mass Input Limitation''. This definition was added as a result of the proposed change discussed under Section II.I of this notice, which would replace the batch cycle limitation concept with the batch mass input limitation concept (i.e., the units used in the limitation are being proposed to be changed from ''number of cycles'' to ''mass input'').

''Batch Mode,'' ''Batch Front-end Process,'' ''Batch Process Vent,'' ''Batch Process,'' and ''Batch Unit Operation''. The new definition for ''batch mode'' is part of a set of proposed changes to the definitions of ''batch process,'' ''batch front-end process,'' and ''batch unit operation.'' It has been suggested that the promulgation definitions of batch front-end process vent/batch process vent, batch process, and batch unit operation, and continuous process, continuous process vent, and continuous unit operation caused confusion. In considering the intent and usage of these terms, the EPA has decided to propose changes to these definitions. First, for the production of some thermoplastic products, an entire process unit must be classified as ''batch'' or ''continuous,'' because some subcategories (and the resulting control requirements) were established on this basis. For purposes of establishing a process unit as either ''batch'' or ''continuous,'' the terms ''batch process'' and ''continuous process'' are used. The definitions of those terms classify the process unit as ''batch'' or ''continuous'' based on whether the reactor(s) in the process unit are operated in a ''batch mode'' or ''continuous mode'' (the EPA is also proposing to replace the terms ''batch process mode'' and ''continuous process mode'' with the terms ''batch mode'' and ''continuous mode'' in these amendments).

However, the EPA intended, and continues to intend, that a process vent be classified as ''continuous'' or ''batch'' based on the unit operation from which the emissions originate. It is possible that in a process where the reactor is operated in a batch mode (thus meaning the entire process is operated as a ''batch process''), subsequent unit operations could be continuous. In fact, in the elastomer and thermoplastic industries, it is common for the reactors to be batch and the finished unit operations (e.g., dryers) to be continuous. Therefore, within a batch process, there would be some batch process vents (e.g., reactor vents) and some continuous process vents (e.g., dryer vents).

In an attempt to clarify this situation, the EPA is proposing to add and amend related definitions. The foundation for the proposed concepts is the newly added definitions of ''batch mode'' and ''continuous mode,'' which describe operational characteristics of these two ''modes.'' The EPA is proposing to modify the definitions of ''batch unit operation'' and ''continuous unit operation,'' basing the definitions on whether the unit operation is operated in a batch (or continuous) mode. This is consistent with the promulgated approach, which classified process vents based on whether they originated at a batch or continuous unit operation. Finally, the EPA is proposing to modify the definitions of ''batch process'' and ''continuous process'' so that these definitions are based on whether the reactors are operated in a batch or continuous mode. The EPA believes that these proposed changes should eliminate the confusion between these terms.

''Combined Vent Stream''. The EPA is proposing to add this definition to clarify what could be included in a ''combined vent stream'' (e.g., a combination of two or more of the following types of process vents: batch process vents, continuous process vents, and aggregate batch vent streams), for the purposes of subparts U and JJJ.

''Compliance Schedule''. For the reasons explained more fully in section B.1. of this notice, the EPA is proposing to remove this term from the list of cross-referenced definitions contained in §§ 63.482(a) and 63.1312(a) because it is no longer cross-referenced or used in subpart U or JJJ.

''Construction''. The EPA is proposing to add definitions of ''construction'' which are specific to subparts U and JJJ. In the newly proposed definitions, the term ''stationary source'' (which was used in the HON definition) is replaced with the term ''affected source,'' in order to clarify that the newly proposed definitions only apply to the construction of a subpart U or JJJ ''affected source.'' The proposed definitions also make clear (as proposed under §§ 63.480(i)(1) and 63.1310(i)(1)) that the addition of an EPPU/TPPU or group of EPPU/TPPU's triggers the definition of ''construction'' when the ''addition'' of the EPPU/TPPU is the result of a change in primary product (causing a formerly non-elastomer/non-thermoplastic product process unit to become an EPPU/TPPU), if the other requirements listed in §§ 63.480(i)(1) and 63.1310(i)(1) are met.

''Continuous Mode,'' ''Continuous Front-end Process Vent,'' ''Continuous Process Vent,'' ''Continuous Process,'' and ''Continuous Unit Operation''. The proposed changes to these definitions mirror those being proposed for the definitions of ''batch mode,'' ''batch front-end process vent'', ''batch process vent'', ''batch process,'' and ''batch unit operation.'' An explanation for those proposed changes is given above, under the subsection entitled *''Batch Mode; Batch Front-end Process; Batch Process Vent; Batch Process; and Batch Unit Operation.''* However, other unrelated changes were also made to these definitions, as described in other parts of this section, including under ''Changes Unique to Polymers and Resins I,'' and ''Changes Unique to Polymers and Resins IV.''

''Continuous Record'' and ''Continuous Recorder''. The EPA has determined that it was incorrect to merely cross-reference the definitions of these two terms in § 63.111, and is proposing to add these two definitions to subparts U and JJJ by modelling the new definitions after the HON definitions, but substituting the appropriate references to the recordkeeping and reporting requirements in subparts U and JJJ for the HON references used in the definitions in § 63.111.

''Duct Work''. In §§ 63.482(a) and 63.1312(a), the EPA is proposing to add a cross-reference to the definition of the term ''duct work'' in the HON (§ 63.161) because the EPA is also proposing to use this term as a clarifying measure in the definitions of EPPU and TPPU (see explanations for changes to those definitions in this section).

''Emission Limitation''. Due to some ambiguity in the distinction in meaning between the terms ''provisions,'' ''emission limitations,'' and ''emission standards,'' the EPA is proposing to clearly define what is meant when these rules refer to an ''emission limitation,'' by cross-referencing the definition of that term in Section 302(k) of the Clean Air Act (Act). The Act defines an emission limitation as:

> ''a requirement * * * which limits quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirement relating to the operation or maintenance of a source to assure continuous emission reduction and any design, equipment, work practice or operational standard promulgated under this Act.''—Section 302(k).

The EPA believes that this definition encompasses percent HAP reduction requirements, outlet concentration

requirements, compliance options that specify the use of a flare, temperature requirements for condensers, and a variety of other provisions intended to reduce emissions, including leak detection and repair (LDAR) programs for the control of emissions from equipment leaks.

Because section 112(h)(1) draws a distinction between the use of the term ''emission standard'' and the use of the term ''emission limitation,'' the EPA decided it would be best to specifically refer to the broader term (defined in Section 302(k) of the Act), especially due to the manner in which that term is used in the proposed revisions to §§ 63.480(j) and 63.1310(j).

''Emission Point''. The EPA is proposing a correction to the definition of ''emission point,'' by specifying that ''waste management units,'' rather than each ''wastewater streams'' are emission points. As a result of the HON amendments, ''equipment subject to § 63.149'' has also been added to the list of emission points described in this definition.

''Equipment''. At promulgation of subparts U and JJJ, the definition of ''equipment'' in § 63.161 was cross-referenced. However, it came to the EPA's attention that unilaterally cross-referencing that definition was problematic, in that the definition of ''equipment'' in § 63.161 was not appropriate for non-equipment leak components. The definition of ''equipment'' in § 63.161 applies uniquely to equipment leak components, described for the purposes of subpart H. For that reason, rather than cross-referencing the definition in § 63.161, the EPA is proposing to add definitions for ''equipment'' to both subparts U and JJJ, to define the term ''equipment'' for specific use with the equipment leak provisions in subparts U and JJJ.

''Existing Affected Source'' and ''New Affected Source''. The EPA is proposing to add definitions for the terms ''existing affected source'' and ''new affected source'' that refer to the appropriate criteria in §§ 63.480(a) and 63.1310(a).

''Existing Process Unit'' and ''New Process Unit''. The proposed definitions of ''existing affected source'' and ''new affected source'' are not appropriate to use in some parts of §§ 63.480(f) and 63.1310(f), because, at the time that an owner or operator is determining whether or not a process unit is subject to subpart U or subpart JJJ, it is not yet part of an ''affected source.'' Therefore, the proposed definitions for ''existing process unit'' and ''new process unit'' mirror the definitions for ''existing affected source'' and ''new affected source,'' except that the proposed definitions apply to process units rather than entire sources.

''Flexible Operation Unit''. The EPA is proposing to add a definition for this term to both subparts U and JJJ, instead of cross-referencing the definition in § 63.101 (as was done at promulgation), because the HON definition of ''flexible operation unit'' refers to ''chemical manufacturing process units.'' The proposed definitions to be added to subparts U and JJJ are modeled after the HON definition of ''flexible operation unit,'' but discuss ''process units'' instead of ''chemical manufacturing process units.''

''Group 1 Batch Front-end Process Vent'' and ''Group 1 Batch Process Vent''. The EPA is proposing to amend these definitions in order to clarify how and where the annual organic HAP emissions and annual average batch vent flow rate are determined.

''Group 1 Wastewater Stream''. The proposed amendments to this definition reflect the amendments promulgated for the definition of ''Group 1 wastewater stream'' in § 63.111. The EPA is also proposing to clarify that the wastewater streams are ''from'' (not ''at'') an existing or new affected source, so that wastewater streams that are from a non-thermoplastic or non-elastomer facility, but that flow across property belonging to an affected source without being changed or added to in any way, are not necessarily considered to be Group 1 wastewater streams under subparts U and JJJ. Other proposed changes include a reference to the Group 1 criteria in the HON (§ 63.132(c)) and references to the organic HAP tables in subpart U and subpart JJJ, respectively, and to § 63.501(a)(10) for subpart U and § 63.1330(b)(8) for subpart JJJ.

''Hard-piping''. In §§ 63.482(a) and 63.1312(a), the EPA is proposing to add a cross-reference to the definition of this term in the HON (§ 63.111) because the EPA is also proposing to use this term as a clarifying measure in the definitions of EPPU and TPPU (see explanations for changes to those definitions in this section).

''Highest-HAP Recipe''. The EPA is proposing to add this definition to both subparts U and JJJ in essence to replace the concept of ''worst-case HAP emitting product'' which was promulgated in both rules. The concept of ''highest-HAP recipe'' is much more straightforward, and the product meeting the definition of ''highest-HAP recipe'' is more easily determined than the ''worst-case HAP emitting product.'' The explanation of the proposed amendments to the batch process vent group determination procedures in Section II.I of this notice provides more detail on the rationale behind this change.

''Initial Start-up''. The EPA is proposing to add a definition for ''initial start-up'' that mirrors the definition in § 63.101, except that initial start-up is triggered by the first time that an elastomer or thermoplastic product is produced in the unit or equipment, rather than by the first time the unit begins production or the equipment is put into operation for any product.

''Maintenance Wastewater''. The EPA is proposing to add a definition for ''maintenance wastewater'' to subpart U, and to amend the promulgated definition of ''maintenance wastewater'' in subpart JJJ, so that both definitions mirror the HON definition for this term in § 63.101, with a special provision stating that the generation of wastewater from the routine rinsing or washing of equipment in batch operation between batches is not maintenance wastewater, but is considered to be process wastewater, for the purposes of subparts U and JJJ.

''Maximum True Vapor Pressure''. The EPA is proposing to remove this definition from the list of cross-referenced definitions in §§ 63.482(a) and 63.1312(a), and to add a definition specific to subparts U and JJJ, because, unlike the HON, these rules do not cover transfer operations.

''Month'' and ''Year''. The EPA is proposing to delete the definitions of ''month'' and ''year'' from subpart U, and to delete the definition of ''year'' from subpart JJJ, because these definitions could be misleading, since the proposed paragraphs §§ 63.481(m) and 63.1311(o) define all calendar periods. The EPA is also requesting comments on the idea of removing these definitions from § 63.1423(b) of subpart PPP, the Polyether Polyols Production NESHAP.

''Multicomponent System''. The EPA is proposing to add a definition for this term in order to clarify the term's meaning (due to its use in §§ 63.488(b) and 63.1323(b)), which is that a ''multicomponent system'' is a stream whose liquid and/or vapor contains more than one compound.

''Net Positive Heating Value''. The EPA is proposing to add a definition for ''net positive heating value,'' because this term is used in the definition of ''recovery device.'' The proposed definition explains that, as used in subparts U and JJJ, ''net positive heating value'' is the difference between the heat value of the recovered chemical stream and the minimum heat value required to ensure a stable flame in a

combustion device. This difference must have a positive value when used in the context of ''recovering chemicals for fuel value,'' which is one of the distinguishing characteristics of a ''recovery device,'' as defined in subparts U and JJJ. The proposed addition of a definition of ''net positive heating value'' is important because it helps distinguish between recovery devices and devices that are not recovery devices, insofar as the properties listed in subparts U and JJJ describe a ''recovery device.''

''*On-site*''. The EPA is proposing to add this definition, based on the definition for the same term that was added in the amendment to § 63.101. This is needed because the EPA is also proposing an amendment to §§ 63.506(h)(1)(vi) and 63.1335(h)(1)(vi), specifying the requirements for keeping descriptions of monitoring systems at affected sources (based on the amendment to the HON that added similar requirements at § 63.152(g)(1)(vi)(D).) The proposed definition of ''on-site'' clarifies that the records may be kept anywhere at the source, such as a central filing area.

''*Operating Day*''. The EPA is proposing to add a definition for the term ''operating day'' in order to distinguish an operating day from a calendar day. Operating days are important for the purposes of determining daily average monitoring values and batch cycle daily average monitoring values.

''*Organic Hazardous Air Pollutant(s) (Organic HAP)*''. The EPA is proposing to amend this definition, in order to reduce the burden on industry that was implied by the promulgated clause that said that any chemical that ''has been or will be reported under any Federal or State program, such as EPCRA section 311, 312, or 313 or Title V,'' was an organic HAP. The proposed definition states that only chemicals listed in Table 5 of subpart U (for subpart U), or Table 6 of subpart JJJ (for subpart JJJ), or that are listed in Table 2 of subpart F, that are ''knowingly produced or introduced'' into the manufacturing process constitute ''organic HAP'' for the purposes of subparts U and JJJ.

''*Process Unit*''. Because the terms ''pipes'' and ''ducts,'' which were used in the promulgated version of this rule, were undefined, the EPA has refined the terminology, to use the terms ''hard-piping'' and ''duct work.'' The proposed amendments to §§ 63.482(a) and 63.1312(a) now cross-reference the definitions of ''hard-piping'' and ''duct work'' in §§ 63.111 and 63.161, respectively.

''*Process Vent*''. The EPA is proposing to amend this definition primarily in order to clarify what constitutes the ''beginning'' and what constitutes the ''end'' of a process vent. Under the proposed changes to this definition, a gaseous emission stream is no longer considered to be a process vent after the stream has been controlled and monitored in accordance with the applicable provisions of these rules.

''*Product*''. The EPA is proposing to amend the definition of ''product'' in subparts U and JJJ in order to clarify that there can be several different ''recipes'' (see below) for the same product, and that, in the case of elastomer products, there can be more than one ''grade'' for a product (see Section II.D of this notice). An additional sentence also clarifies that non-polymer chemicals are considered to be products, if they are manufactured at a process unit.

''*Recipe*''. The EPA is proposing to add a definition for the term ''recipe,'' as a very specific mixture of monomers, additives, or other reactants. This new definition would clarify that a single type of product (e.g., butyl rubber or acrylonitrile butadiene styrene latex) could be produced using several different recipes.

''*Reconstruction*''. The EPA is proposing to add a definition of ''reconstruction'' that is specific to subparts U and JJJ. In the newly proposed definition, the term ''stationary source'' (used in the HON definition of ''reconstruction'') has been replaced with the term ''affected source,'' in order to clarify that this definition only applies to the reconstruction of a subpart U or JJJ ''affected source.'' The proposed definitions also make clear that (as proposed under §§ 63.480(i)(2) and 63.1310(i)(2)) the addition of an emission point triggers the definition of ''reconstruction,'' when the ''addition'' of the emission point is the result of a process change that caused a Group 2 emission point to become a Group 1 emission point, or that caused a non-emission point to become a new ''emission point,'' as defined in subparts U and JJJ, as long as the other requirements listed in §§ 63.480(i)(2) and 63.1310(i)(2) have also been met.

''*Recovery Device*''. The definition of ''recovery device'' that the EPA is proposing to add to subparts U and JJJ is modeled after the amended definition for the same term in § 63.101. However, the proposed definition has been slightly restructured by including the purposes for which a recovery device may be used in a numbered list.

''*Recovery Operations Equipment*''. The EPA is proposing to amend this definition to clarify that recovery or recapture devices used as control devices are not considered to be ''recovery operations equipment.''

''*Residual*''. The EPA is proposing to add a definition for the term ''residual'' (instead of simply cross-referencing the definition found in § 63.111), to clarify that residuals for subparts U and JJJ will be liquid or solid materials containing organic HAP listed in Table 5 of subpart U (for subpart U) or in Table 6 of subpart JJJ (for subpart JJJ) that are removed from a wastewater stream by a waste management unit.

''*Shutdown*'' *and* ''*Start-up*''. The EPA is proposing to add definitions of ''shutdown'' and ''start-up'' that are modeled after the HON definitions that subparts U and JJJ previously cross-referenced (§ 63.101), but which have been modified slightly to include subpart U and JJJ cross-references, and to add provisions specific to batch process vents.

''*Storage Vessel*''. The EPA is proposing to amend this definition to remove the implication that if a tank is not assigned to an EPPU or TPPU, it is not a storage vessel. A correction is also being proposed in subpart U, which would change the incorrect term ''bottoms receiver tanks'' to the correct term ''bottoms receivers.''

''*Total Resource Effectiveness (TRE) Index Value*''. The EPA is proposing to add a rule-specific definition for this term in both subpart JJJ and subpart U. The proposed definitions are largely modeled after the definition of the same term in § 63.111, but contain changes specific to the individual rules to which they apply.

''*Vent Stream*''. The EPA is proposing to add a definition for the term ''vent stream'' (instead of simply cross-referencing the definition found in § 63.111), because the definition of ''vent stream'' in § 63.111 did not include the concept of batch process vents or aggregate batch vents.

''*Waste Management Unit*''. The definition of ''waste management unit'' that the EPA is proposing to add to subparts U and JJJ refers to the amended definition of the term in § 63.111, with a few word substitutions (e.g., replacing CMPU with EPPU or TPPU). The amended definition of ''waste management unit'' in § 63.111 helps clarify the idea that only once wastewater has been *discarded* from the process unit does it become subject to the wastewater provisions. The amended HON definition also draws a clear distinction between waste management units and recovery equipment that is considered to be part of the process unit.

''*Wastewater*''. The definition for ''wastewater'' that the EPA is proposing to add to subparts U and JJJ is largely modeled after the amended HON definition for the same term in §§ 63.101 and 63.111, except that it refers to the appropriate organic HAP lists in subparts U and JJJ (i.e., Table 5 of subpart U and Table 6 of subpart JJJ). The EPA is proposing to add these definitions for the term ''wastewater'' to subparts U and JJJ and to delete the cross-references to the HON definition that were promulgated under §§ 63.482(a) and 63.1312(a). However, the proposed definitions in subparts U and JJJ otherwise mirror the definition promulgated in § 63.111, which was amended in order to add the concept of the fluid having been ''discarded'' from a process unit. The proposed ''discard'' concept is fundamental in distinguishing which fluids exiting the EPPU or TPPU are subject to the wastewater provisions in §§ 63.501 or 63.1330, respectively. Together with the point of determination and in-process equipment concepts in the amended HON, the proposed definition of ''wastewater'' in subparts U and JJJ, like the amended HON definition, makes decision-making for owners and operators of facilities (and for regulatory authorities) more straightforward, and makes the proposed rules easier to implement than the promulgated rules. Because fluids in the in-process equipment are also controlled under §§ 63.501 and 63.1330 in these proposed amendments, emission reductions will not be affected by these proposed changes.

''*Wastewater Stream*''. The EPA is proposing to add a definition of this term to both subparts U and JJJ, because the definition of this term in § 63.111 is inappropriate for subparts U and JJJ, in that it refers to ''wastewater as defined in § 63.101.'' This is inappropriate for subparts U and JJJ because the EPA is proposing to define wastewater in §§ 63.482 and 63.1312, rather than refer to the definition of that term in § 63.101. Therefore, the EPA is proposing to add the proposed definitions for the term ''wastewater stream'' to subparts U and JJJ and to delete the cross-references to the HON definition of this term in §§ 63.482(a) and 63.1312(a).

2. Changes Unique to Polymers and Resins I

''*Block Polymer*''. The EPA is proposing to add a definition of ''block polymer'' because that term is used in the definition of the term ''resin.''

''*Continuous Front-end Process Vent*''. In addition to the changes mentioned above under ''Changes Common to Polymers and Resins I and IV,'' the EPA is proposing amendments to this definition to correct an error made at promulgation: the scmm and ppmv cutoffs were meant to distinguish between Group 1 and Group 2 continuous front-end process vents, rather than to be a defining characteristic of all continuous front-end process vents. Therefore, the amended definition of this term has only one cutoff, which is that the process vent must contain greater than 0.005 weight percent total organic HAP. The proposed definition is consistent with the HON's definition for ''process vent,'' which it was intended to mirror. In addition, the EPA is proposing to add a sentence to the end of this definition, clarifying where and how organic HAP weight percent is to be determined.

''*Control Device*''. The proposed edits to this definition in subpart U are intended to remove any ambiguity that might have been caused by the promulgated structure of the definition. In other words, the EPA is proposing to remove the phrase ''replaced with'' from the promulgated definition of ''control device,'' and to instead use the phrase ''shall apply'' in the proposed definition.

''*Elastomer Product*'' *and* ''*Elastomer Type*''. The EPA is proposing to edit these definitions to clarify that, under subpart U, there are 13 distinctly different ''elastomer types,'' which are listed in the definition of ''elastomer product.''

''*Elastomer Product Process Unit (EPPU)*''. The EPA is proposing changes to this definition to resolve several concerns, and to make a correction. The last sentence of this definition at promulgation (beginning ''Compounding units * * *'') was an inadvertent carry over from subpart JJJ, and did not belong in this definition. That sentence has been removed from the definition proposed in this notice.

Because the terms ''pipes'' and ''ducts,'' which were used in the promulgated version of this rule were undefined, the EPA has refined the terminology, to use the terms ''hard-piping'' and ''duct work.'' The proposed amendments now cross-reference the definitions of ''hard-piping'' and ''duct work'' in ''63.111 and 63.161, respectively. New language has also been added to clarify that utilities and other non-process lines are not considered to be part of the EPPU.

''*Emulsion Process*'' *and* ''*Suspension Process*''. The EPA is proposing to amend the definitions of ''emulsion process'' and ''suspension process,'' which were nearly identical at promulgation, so that they are distinguishable from one another, and so that they are more precise. The terms ''emulsion'' is central to the distinction between two different elastomer products: styrene butadiene rubber by solution, and styrene butadiene by emulsion. The term ''suspension process'' is important for the purposes of defining ''ethylene propylene rubber.''

''*Epichlorohydrin Elastomer*''. The EPA is proposing to amend this definition to simplify the term ''epoxy resins'' to ''epoxies,'' in order to avoid contradictions between this definition, the definition of ''elastomer,'' and the definition of ''resin.'' As will be explained further below, at promulgation, the definition of ''resin'' stated that a resin is not an elastomer and the definition of ''elastomer'' said that an elastomer is not a resin, but the EPA decided that this circular way of defining those terms was not helpful. So, in addition to proposing to remove the statement in the definition of ''resin'' that indicated that a resin was not an elastomer, the EPA is proposing to replace the term ''epoxy resins'' with the term ''epoxies,'' in order to avoid even greater confusion over the interactions between these definitions.

''*Ethylene-propylene rubber*''. The EPA is proposing to take out the phrase ''moderate amount of the'' (which precedes the phrase ''third polymer''), based on the fact that the phrase ''moderate amount of'' is not quantitatively defined, and therefore offers little useful guidance.

''*Front-end*''. The EPA is proposing to remove a sentence from this definition that caused confusion and was unnecessary. In particular, the idea that the ''front-end'' began specifically at ''raw material storage'' was problematic, in that material could be hard-piped into a process unit without first being ''stored,'' per se.

''*Glass Transition Temperature*''. The EPA is proposing to define this term (which is used in the definition of ''elastomer'') as part of these amendments, because the meaning of this term, which is central to the definition of ''elastomer,'' might not be common knowledge to owners and operators.

''*Grade*''. The proposed changes to this definition are intended to better distinguish between the terms ''product,'' ''recipe,'' and ''grade.'' The proposed definition clarifies that a grade is a ''group of recipes'' used for the production of one elastomer type, but that more than one recipe can also make up one ''grade.''

''*Group 1 Continuous Front-end Process Vent*''. The changes that the

EPA is proposing to make to this definition actually represent a correction, in that this definition was intended to mirror the HON definition for ''Group 1 Process Vent,'' but was inadvertently changed to have more limiting criteria at the promulgation of subpart U. The missing criteria (i.e., flow rate greater than or equal to 0.005 standard cubic meter per minute and total organic HAP concentration greater than or equal to 50 parts per million by volume) have been added to the proposed amendments to this definition.

''Group 2 Continuous Front-end Process Vent''. For similar reasons to those given above, the EPA is also proposing to amend this definition, to include the missing distinguishing criteria (i.e., flow rate less than 0.005 standard cubic meter per minute, total organic HAP concentration less than 50 parts per million by volume, or total resource effectiveness index value greater than 1.0).

''Polybutadiene Rubber by Solution'' and ''Styrene Butadiene Rubber by Solution''. These two definitions are being separated in these proposed amendments in order to clarify that they constitute two different elastomer products.

''Resin''. The proposed changes to the definition of ''resin'' are intended as clarifications, and make no substantive change to this definition.

''Stripper''. The EPA is proposing to add a very basic definition of the term ''stripper'' to subpart U, because this term is used in subpart U and the EPA believes that it would be helpful to define the term.

''Stripping''. The EPA is proposing to define the term ''stripping'' rather than the term ''stripping technology,'' because the term ''stripping'' is used in subpart U. The proposed definition of ''stripping'' is largely based on the promulgated definition of ''stripping technology,'' except that the EPA is proposing to be more specific about which processes are considered to be stripping and which processes are not considered to be stripping.

Finally, the EPA is proposing to remove the following definitions from subpart U with these proposed amendments because these terms are not used in subpart U: ''mass process,'' ''material recovery section,'' ''polymerization reaction section,'' ''raw materials preparation section,'' and ''solid state polymerization unit.''

3. Changes Unique to Polymers and Resins IV

''Continuous Process Vent''. In addition to the changes mentioned above under ''Changes Common to Polymers and Resins I and IV,'' the EPA is proposing to add a sentence to the end of this definition, clarifying where and how organic HAP weight percent is to be determined.

''Emulsion Process''. The EPA is proposing to expand upon this definition, in an attempt at further clarifying the differences between emulsion processes, mass processes, and suspension processes.

''Heat Exchange System''. The EPA is proposing to replace the word ''operated'' with the phrase ''intended to operate'' in this definition, so that if contact occurs between the cooling medium and the process fluid or gases, the cooling system does not automatically cease to be a ''heat exchange system.''

''Material Recovery Section''. There are five changes proposed for this definition. First, the EPA is proposing to remove the phrase ''purification and treatment'' from the definition. The EPA believes that this phrase could be interpreted to include wastewater treatment processes; this was not the intent of the Standards of Performance for VOC Emissions from the Polymer Manufacturing Industry or the promulgated Polymers and Resins IV rule. Because this misinterpretation could occur, the proposed language removes this phrase and replaces it with the terms ''separation'' and ''recovery.'' The EPA judged that the terms ''separation'' and ''recovery'' more accurately describe the physical operations that are taking place.

Second, the EPA believes that the phrase ''off-site purification and treatment'' could be misinterpreted to exclude on-site activities. Based on the background documents for the Standards of Performance for VOC Emissions from the Polymers Manufacturing Industry, which served as the basis for the definition of ''material recovery section'' and the provisions contained in §§ 63.1316 through 63.1320, there is a distinction between on-site and off-site activities in the Standards of Performance for VOC Emissions from the Polymers Manufacturing Industry, and the proposed language is intended to clarify this distinction. The phrase ''separates and recovers * * * for sale or return to the TPPU'' signifies on-site activities and the phrase ''separates * * * for off-site recovery'' signifies off-site activities.

Third, the proposed language is intended to clarify that equipment recovering both ethylene glycol and any other materials is considered to be in the polymerization reaction section, and not in the material recovery section. In response to a comment at proposal, the promulgated rule attempted to make this change but did not do so adequately. Specifically, the proposed language removes the parenthetical phrase ''(e.g., methanol)'' to avoid implying that methanol is the only other material of interest.

Fourth, the entire definition of material recovery section has been revised to clarify that the chemicals involved are restricted to ethylene glycol and methanol for PET affected sources and styrene for polystyrene affected sources. During development of the Standards of Performance for VOC Emissions from the Polymers Manufacturing Industry, ethylene glycol and methanol (for PET) and styrene (for polystyrene) were the only chemicals considered to be involved with the material recovery section. Therefore, other equipment recovering other chemicals are not considered to be part of the material recovery section, under the amended definition proposed with today's action.

Fifth, the proposed language removes the following sentences:

> Equipment that treats recovered materials are to be included in this process section, but equipment that also treats raw materials are not to be included in this process section. The latter equipment are to be included in the raw materials preparation section.

These sentences were removed because the situation described by them does not occur in the production of PET or polystyrene.

''Raw Material Preparation Section''. Slight wording changes have been made to this definition, to clarify the intended meaning of the term ''raw material preparation section.'' At promulgation, this definition stated that the raw material preparation section began with the equipment used to transfer raw materials from storage and ended with the last piece of equipment that prepares the material for polymerization. Under the proposed definition, instead of saying that the raw material preparation section ''begins'' with the equipment used to transfer raw materials from storage, the rule states that the raw materials preparation section ''includes'' the equipment used to transfer raw materials from storage.

''Solid State Polymerization Process''. The EPA is proposing to define ''solid state polymerization process'' instead of ''solid state polymerization unit'' (as was done at promulgation), because the term ''solid state polymerization process'' is used in subpart JJJ (in § 63.1310(d)(5)), while the term ''solid state polymerization unit'' is not.

''Storage Vessel''. In addition to the proposed amendments described above

as common changes to subparts U and JJJ, in subpart JJJ the EPA is also proposing to add ''surge control vessels and bottoms receivers'' to the list of equipment that are not considered to be storage vessels under the definition of ''storage vessel'' in subpart JJJ. This change corresponds to the EPA's proposed change under which surge control vessels and bottoms receivers would be subject to the requirements of subpart H, to be consistent with the approach taken in subpart U, with regard to how it handles surge control vessels and bottoms receivers, but this proposed change will not cause any change in the actual control requirements for surge control vessels and bottoms receivers.

''*Thermoplastic Product Process Unit (TPPU)*''. The EPA is proposing changes to this definition to resolve several concerns. Because the terms ''pipes'' and ''ducts,'' which were used in the promulgated version of this rule were undefined, the EPA has refined the terminology, to use the terms ''hard-piping'' and ''duct work.'' The proposed amendments now cross-reference the definitions of ''hard-piping'' and ''duct work'' in §§ 63.111 and 63.161, respectively. New language has also been added to clarify that utilities and other non-process lines are not considered to be part of the TPPU.

E. Emission Standards—Proposed Changes to §§ 63.483 and 63.1313

Sections 63.483(b) and 63.1313(b). The text that is proposed to be added at §§ 63.483(b) and 63.1313(b) is based on the amended HON text in § 63.112(e)(3). The proposed revisions to §§ 63.483 and 63.1313 offer guidance to owners and operators on how to handle combined emission streams from any variety of sources. The main difference between the amended HON text at § 63.112(e)(3) and the proposed text for §§ 63.483(b) and 63.1313(b) is that the text proposed in this notice includes specific provisions pertaining to instances in which the combined emission streams include streams from continuous process vents *and* batch process vents, or batch process vents but not continuous process vents.

As noted above, these provisions offer guidance on how to comply for combined streams from different types of emission points. With the exception of combined streams containing batch process vent streams, the options are to comply with the individual requirements for each type of emission stream in the combined stream, or to comply with the most stringent requirement for any stream in the combined stream. The requirements are listed in order of stringency as follows: (1) Group 1 continuous process vent requirements, (2) Group 1 storage vessel requirements, (3) waste management unit control requirements, (4) closed vent system control requirements for in-process equipment, and (5) aggregate batch vent stream requirements.

Due to the unique nature of batch unit operations, this approach is not used for combined streams containing batch process vent streams but no continuous process vent streams. Except when combined with continuous process vent streams, compliance must be demonstrated with the batch process vent requirements in §§ 63.486 through 63.492 and §§ 63.1321 through 63.1327 for the portion of the combined stream from the batch process vent. If a batch process vent stream is combined with a continuous process vent stream, compliance may be achieved by complying with the Group 1 continuous process vent requirements. Because the first ''applicable'' set of requirements listed under proposed §§ 63.483(b)(2) and 63.1313(b)(2) for a combined stream containing both continuous and batch process vent streams is the set of requirements for continuous process vents (in §§ 63.485 and 63.1315), a combined stream containing both types of streams would be subject to the proposed requirements in §§ 63.485(o) and 63.1315(a)(13), which list the requirements for such a combined stream.

Sections 63.483(c) and 63.1313(c). The EPA is proposing to make small edits to these paragraphs, to incorporate terminology changes related to the amended HON wastewater provisions, and to clarify that restrictions related to which emission points may be included in an emissions average are discussed in a different section of the rule (i.e., §§ 63.503(a)(1) and 63.1332(a)(1)).

F. Storage Vessel Provisions—Proposed Changes to §§ 63.484 and 63.1314

1. Changes Common to Polymers and Resins I and IV

Sections 63.484(g), (h), (m), (o), (p), and (q); and 63.1314(a)(5) and (a)(6). The EPA is proposing minor wording changes to these paragraphs to clarify the intent of the paragraphs and for the sake of consistency between subpart U and subpart JJJ.

Sections 63.484(i), 63.1314(a)(7), and Promulgated 63.1314(a)(15). The EPA has realized that promulgated § 63.1314(a)(15) contradicted promulgated § 63.1314(a)(7), and so proposes to remove the paragraph promulgated as § 63.1314(a)(15). In addition, the EPA is proposing to edit §§ 63.484(i) and 63.1314(a)(7) to state that if a performance test is required in or *acceptable* under the continuous process vent requirements, the batch process vent requirements, and/or the wastewater provisions in subpart U or JJJ, that performance test may also be used to show compliance with the storage vessel provisions in § 63.119(e), as required under §§ 63.485 and 63.1315.

Sections 63.484(j) and 63.1314(a)(8). The EPA is proposing changes to this paragraph to clarify the intent of the paragraph and avoid overlap with other requirements in subparts U and JJJ, and in subpart G of the HON.

Sections 63.484(k) and (l) and 63.1314(a)(9) and (10). The EPA is proposing to add these paragraphs to reflect a change to §§ 63.506(e)(5)(ii) and 63.1335(e)(5)(ii), clarifying the differences in recordkeeping and reporting requirements for owners and operators of storage vessels that are required to continuously monitor storage vessel control device parameter levels, and those for owners and operators that are not required to continuously monitor storage vessel control device parameter levels.

Promulgated §§ 63.484(n) and 63.1314(a)(12). The EPA is proposing to remove these paragraphs with these amendments, because they are no longer pertinent, due to the promulgated HON amendments. Neither the Implementation Plan nor § 63.151(c) are mentioned in the amended sections of §§ 63.119 through 63.123.

Sections 63.484(r) and 63.1314(a)(16). The proposed changes to these paragraphs represent a correction and clarification with regard to compliance dates for storage vessels, as they are referred to in the HON (subpart G).

Sections 63.484(s) and 63.1314(a)(17). The EPA is proposing to add these paragraphs because, in their promulgated form, both subpart U and subpart JJJ referred to § 63.11(b) for determining compliance with the flare requirements. However, § 63.11(b) did not actually require a compliance demonstration. To remedy this situation, the EPA is proposing to add a requirement to perform the compliance demonstration for flares to §§ 63.504(c) and 63.1333(e). The proposed paragraphs to be added at §§ 63.484(s) and 63.1314(a)(17) replace the HON reference to § 63.11(b) with a reference to the provisions in §§ 63.504(c) and 63.1333(e).

2. Changes Unique to Polymers and Resins I

Section 63.484(a). The EPA is proposing to amend this paragraph to

make the language parallel with that in § 63.1314(a), to avoid confusion due to unintended differences in the language in subpart JJJ and the language in subpart U, and to update outdated cross-references.

Section 63.484(b)(2). The EPA is proposing to amend this paragraph to clarify that storage vessels containing ''other'' latex products, as the promulgated language stated, was intended to mean latex products other than styrene-butadiene latex.

G. Continuous Process Vent Provisions—Proposed Changes to §§ 63.485 and 63.1315

1. Changes Common to Polymers and Resins I and IV

Sections 63.485(a) and 63.1315(a). The proposed changes to these two paragraphs are intended to make the language in § 63.1315(a) more consistent with the language in § 63.485(a), and to clarify the intended meaning of both paragraphs.

Sections 63.485(k) and 63.1315(a)(9). The EPA is proposing to restructure these two paragraphs to more clearly express the parameter monitoring requirements and reporting requirements associated with continuous process vents.

Sections 63.485(l) and 63.1315(a)(10). The EPA is proposing several changes to these paragraphs. In §§ 63.485(l) and 63.1315(a)(10), changes are being proposed that would make subparts U and JJJ more consistent with the HON requirements for process vents (in §§ 63.113 through 63.118). At promulgation, the EPA had inadvertently neglected to include a provision in subparts U and JJJ that was similar to the provision in § 63.118(k). The proposed addition of paragraphs §§ 63.485(l)(5) and 63.1315(a)(10)(v) makes subparts U and JJJ consistent with the HON by adding paragraphs that are parallel in meaning to § 63.118(k), which exempts owners and operators from the requirement to submit a report of a process change in certain situations (e.g., if the vent stream flow rate is recalculated as being less than 0.005 standard cubic meter per minute). The EPA is also requesting comments on the idea of incorporating a similar paragraph as § 63.1425(f)(7)(v) into subpart PPP, the Polyether Polyols Production NESHAP.

In addition, as is explained more fully in Section R.1 below, the EPA is proposing to remove the concept of submitting compliance schedules throughout subparts U and JJJ. Accordingly, the EPA is proposing to remove the promulgated requirement to submit compliance schedules after process changes to continuous process vents, as discussed in §§ 63.485(l) and 63.1315(a)(10). The proposed amendments to these sections simply require that a description of the process change be submitted within 180 days after the process change is made or with the next Periodic Report, whichever is later.

Sections 63.485(m) and (n); and 63.1315(a)(12) and (15). The EPA is proposing to add these paragraphs to provide new exceptions from the requirement to comply with the provisions in §§ 63.113 through 63.118, due to new references contained in §§ 63.113 through 63.118 (i.e., references to HON organic HAP tables, and references to HON recordkeeping and reporting requirements), which are inappropriate for subparts U and JJJ.

Sections 63.485(o) and (p); and 63.1315(a)(13) and (14). Under §§ 63.485(o) and (p) and 63.1315(a)(13) and (14), the EPA is proposing to amend the requirements that were promulgated as §§ 63.485(m) and (n) and 63.1315(a)(10)(i) and (ii), to better specify what is meant by ''maximum representative operating conditions,'' and to clarify where (in the process) testing should be done. The proposed paragraphs explain that maximum representative operating conditions do not: (1) Include situations that would cause damage to equipment; (2) necessitate that the owner or operator make product that does not meet an existing specification for sale to a customer; or (3) necessitate that the owner or operator make product in excess of demand. The EPA is also proposing to add general performance testing requirements that include these exceptions in §§ 63.504(a) and 63.1333(a), as will be discussed in greater detail in Section O.1. below.

The EPA is also proposing to include regulatory language that specifies the period of operations that must be considered when calculating a TRE index value. The TRE index value must be calculated during periods when one or more batch emission episodes are occurring that result in the highest organic HAP emission rate (in the combined vent stream that is being routed to the recovery device) that is achievable during that 6 month period. For the purposes of determining the batch emission episode that results in the highest HAP emission rate, the owner or operator is limited to considering batch emission episodes that occur during the 6-month period that begins 3 months before and ends 3 months after the owner or operator conducts the TRE index value calculation.

With this proposed rulemaking, the EPA has added specific provisions for combined vent streams, in §§ 63.485(o)(1), (3), (4), and (p) and in 63.1315(a)(13)(i), (iii), (iv), and (a)(14). The proposed amendments in §§ 63.485(o)(1) and 63.1315(a)(13)(i) would allow owners and operators of batch process vents or aggregate batch vent streams that are combined with a Group 1 continuous process vent stream prior to a control device to either comply with the provisions in §§ 63.113 through 63.118 for Group 1 process vents, or comply with the provisions in §§ 63.483(b)(1) and 63.1313(b)(1).

The proposed text that is contained in §§ 63.485(p) and 63.1315(a)(14) pertains to a combined vent stream that is made up of a stream from outside of the affected source and a continuous process vent stream, if the two streams are normally conducted through the same final recovery device.

Sections 63.485(u) and 63.1315(a)(17). The EPA is proposing the addition of these paragraphs, so that it is clear that the proposed performance test requirements for flares (contained in §§ 63.504(c) and 63.1333(e)) apply. The proposed language in §§ 63.504(c) and 63.1333(e) specify the requirements from § 63.11(b) that apply to subpart U and JJJ affected sources. Section O.1. below provides further rationale pertinent to this change.

Promulgated §§ 63.485(s) and 63.1315(a)(14). The EPA is proposing to remove these paragraphs, which are no longer needed, because the same exemptions are allowed under § 63.116(b), as amended at promulgation.

2. Changes Unique to Polymers and Resins I

Section 63.485(a) through (j). The changes that the EPA is proposing to these paragraphs are clarifications and cross-reference updates. For example, in § 63.485(f), the EPA is proposing to add the parenthetical ''(i.e., the proposal date for subpart G of this part),'' after ''December 31, 1992,'' in order to explain the significance and origin of that particular date. The proposed version of § 63.481(f) states that when § 63.113 refers to December 31, 1992, ''June 12, 1995'' (the proposal date of subpart U) will instead apply to subpart U affected sources.

Proposed § 63.485(q). Based on an analysis conducted on the production of elastomers in gas-phased processes, the EPA reached three primary conclusions that impact proposed § 63.485(q). First, the production of *any elastomer product*

produced in a gas-phased reaction process, as opposed to only the production of ethylene propylene rubber, should be exempt from the requirements to control hydrogen halides and halogens from outlet combustion devices. This change is addressed in the proposed amendments to § 63.485(q)(2). Second, the production of elastomer products in a gas-phased reaction process should be treated as a separate subcategory, as there are technical differences impacting HAP emissions and emission control devices between the gas-phased reaction process and other elastomer production processes.

Finally, the EPA determined that the exemption from the requirement to control halogens from the outlet of control devices at gas-phased reaction elastomer production processes represented the MACT floor level of control for new and existing sources (see Docket item no. XX–XX–XX, Docket Number A–92–44, for more information). The EPA also evaluated the more stringent option of requiring the control of halogens from the outlet of control devices, and found that the costs per unit of HAP emission reduction (i.e., cost effectiveness) of this option were higher than generally considered reasonable by the EPA. Therefore, § 63.485(q) has been restructured to incorporate these decisions.

Proposed § 63.485(r) and (t). The EPA is proposing minor wording, cross-reference, and clarifying changes to these paragraphs.

Proposed § 63.485(s)(3) through (s)(6). The EPA is proposing a change to this paragraph that clarifies that the internal combustion engine must be running at all times when organic HAP emissions are being routed to it. The promulgated paragraph described the monitoring requirements when using an internal combustion engine as a control device for a continuous front-end process vent, but did not describe the compliance requirements for that situation.

3. Changes Unique to Polymers and Resins IV

Section 63.1315(e). The EPA is proposing to add this paragraph to implement requirements for acrylonitrile butadiene styrene resin/alpha methyl styrene acrylonitrile resin (ASA/AMSAN) affected sources. These requirements were discussed in the preambles to the proposed and promulgated rules but were inadvertently omitted from the regulatory text. This paragraph requires that owners or operators reduce organic HAP emissions from each continuous process vent, each batch process vent, and each aggregate batch vent stream by 98 weight-percent.

H. PET and Polystyrene Affected Sources—§§ 63.1316 Through 63.1320 (Polymers and Resins IV Only)

The proposed amendments contain four fundamental changes to the provisions for temperature limits for final condensers. First, the proposed amendments change the temperature limit for final condensers from a parameter monitoring type of limit to an emission limit (i.e., violations of the temperature limit are violations of the emission limitation, not violations of a monitoring limit). Second, the proposed amendments remove requirements for an initial performance test and parameter monitoring of the condenser outlet temperature and require continuous compliance with the daily average temperature for the condenser outlet. Third, the 6°C (10°F) window that allowed the average temperature to be 6°C (10°F) warmer than the specified emission limit has been removed. Fourth, the averaging period has been changed from a 3-hour period to a 24-hour period. The paragraphs below describe these and other changes (and the EPA's rationale for those changes) to the provisions contained in §§ 63.1316 through 63.1320.

Section 63.1316(a). Poly(ethylene terephthalate) resin (PET) and polystyrene affected sources are considered to be either batch or continuous processes. An affected source is defined as batch or continuous based on the mode of the reactors. That is, if the reactor is operated in a batch mode, then the entire process is classified as a batch process, even if there are continuous unit operations elsewhere within the process unit. The proposed language in § 63.1316(a) is intended to clarify two points. First, §§ 63.1316 through 63.1320 are only applicable to process vents at affected sources producing PET and polystyrene in continuous processes (i.e., a process where the reactors are operated in a continuous mode). Second, the proposed revision clarifies that affected sources producing either PET or polystyrene using a batch process (i.e., a process where the reactors are operated in a batch mode) are to comply with the provisions in § 63.1315 for process vents from continuous unit operations within the process and the provisions in §§ 63.1321 through 63.1327 for process vents from batch unit operations within the process.

As part of these changes, the phrase ''continuous process'' has been removed from the titles for §§ 63.1316 through 63.1320. The EPA judged that inclusion of this phrase could mislead readers to believe that there was a corresponding set of provisions that addressed PET and polystyrene affected sources using a batch process. The changes discussed above indicate that affected sources using a continuous process and those using a batch process are addressed by these provisions (i.e., §§ 63.1316 through 63.1320).

Section 63.1316(b) and (c). The proposed language in these paragraphs is intended to clarify that compliance with 40 CFR, subpart DDD, is not a violation, but that compliance with subpart JJJ is required. Another clarifying change that the EPA is proposing is to replace the phrase ''each owner or operator'' with the phrase ''the owner or operator,'' (or an equivalent phrase) to eliminate the possible misinterpretation that more than one owner or operator at a single affected source would have to illustrate compliance with the requirements of subpart JJJ. A similar change is being proposed in various places throughout both subparts U and JJJ.

Section 63.1316(b)(1)(i). This paragraph was reorganized and rewritten to clarify the intended meaning. In addition, a reference to § 63.1318(b) was added to improve the clarity of this paragraph.

Section 63.1316(b)(1)(i)(A), (b)(1)(ii), (b)(2)(i), (b)(2)(ii), and (c)(1)(i). The proposed language in these paragraphs is intended to clarify that an owner or operator may either meet the specified emission limit for each individual process section (e.g., material recovery section or polymerization reaction section) independently or may meet the specified emission limit for the collection of that type of process section (e.g., material recovery section or polymerization reaction section) within the affected source (as a group).

Section 63.1316(b)(1)(i)(B) and (c)(1)(ii). The proposed language in these paragraphs specifies that the averaging period for the temperature limit is a 24-hour period. The promulgated paragraph was not specific, but a 3-hour averaging period was implied. The EPA has determined that a 3-hour averaging period is inconsistent with other provisions of the rule which require compliance on a daily average basis. The EPA has judged that adding to the consistency of the provisions by having 24-hour averaging periods throughout the rule will benefit both the Agency and the regulated community. The EPA believes that little loss in stringency will result from changing from a 3-hour averaging period to a daily (i.e., 24 hour) average.

The EPA is also proposing to add a citation to § 63.1318(d), in order to clarify that the daily average shall be maintained according to the provisions of § 63.1318(d). The proposed provisions in § 63.1318(d) reference other proposed provisions in subpart JJJ that specify how the daily average is to be determined, and that clarify that values recorded during periods of start-up, shutdown, and malfunction are not to be included in the determination of the daily average.

Section 63.1316(b)(1)(iii), (b)(1)(iv), (b)(2)(iii), (b)(2)(iv), (c)(1), and (c)(3). These paragraphs were reorganized and rewritten to clarify the intended meaning.

Section 63.1316(c)(1)(iii)(A). The EPA is proposing to amend the language in § 63.1316(c)(1)(iii)(A), which, as promulgated, provides owners and operators of polystyrene affected sources with the option of reducing emissions from continuous process vents in the collection of material recovery sections by 98 weight percent or to an outlet concentration of 20 parts per million by volume. The proposed amendment clarifies that the use of a combustion device (including, but not limited to, thermal incinerators, catalytic incinerators, boilers, or process heaters) is required when choosing this compliance option. The regulation as promulgated already provided an owner or operator with the flexibility to use any type of efficient recovery device to comply with § 63.1316(c)(1)(i). Unless the proposed clarifying amendment to § 63.1316(c)(1)(iii)(A) is made to specify that the 98 percent/20 ppmv option must be met using combustion devices only, this option could inappropriately be used to demonstrate compliance through the use of relatively inefficient recovery devices, since the inlet location for performance testing is not specified.

Section 63.1317. The proposed language in this section changes the requirements for monitoring the condenser exit temperature from a 3-hour averaging period to a daily (i.e., 24-hour average). This change is accomplished by removing promulgated paragraph (b). This section, as proposed, references the monitoring provisions for continuous process vents which are being proposed to specify that monitoring averages are based on a 24-hour averaging period.

Section 63.1317, 63.1318(a), 63.1319(a), and 63.1320(a). The proposed language in these paragraphs is intended to clarify that the references to group determinations and TRE determinations do not apply to owners and operators under these paragraphs.

Section 63.1318(b)(1)(i). The proposed language in this paragraph is intended to clarify that the location of the sampling point to be used for determining the mass emission rate is after the last recovery or control device.

Section 63.1318(d). The proposed language in this section changes the requirements for demonstrating compliance with the temperature limits for final condensers. The promulgated rule required a performance test to demonstrate initial compliance and required monitoring of the condenser outlet temperature using a 3-hour averaging period. An exceedance of the temperature limit was considered to be an exceedance of the monitoring provisions (similar to having a daily average that was above the maximum or below the minimum level for parameter monitoring). The promulgated rule also provided a 6°C (10°F) window that allowed the 3-hour average to be 6°C (10°F) warmer than the specified emission limit. The EPA is proposing to eliminate these three concepts with these amendments, for the reasons explained below.

The provisions in §§ 63.1316 through 63.1320 are based on the provisions from the Standards of Performance for VOC Emissions from the Polymers Manufacturing Industry (40 CFR part 60, subpart DDD). At initial proposal and promulgation of subpart JJJ of this part, the EPA made an error in incorporating the Standards of Performance for VOC Emissions from the Polymers Manufacturing Industry, and the proposed changes in these amendments are meant to correct that error. The Standards of Performance for VOC Emissions from the Polymers Manufacturing Industry specify that the condenser temperature limit is an emission limitation, in that a 3-hour average temperature greater than the specified temperature limit is a violation of the emission limit. In the promulgated rule, the EPA mistakenly required monitoring (in § 63.1318(d)(1)) that more closely paralleled the parameter monitoring required in § 63.1334 than it paralleled the Standards of Performance for VOC Emissions from the Polymers Manufacturing Industry. The Standards of Performance for VOC Emissions from the Polymers Manufacturing Industry do not require a performance test or establishment of a monitoring level because the condenser temperature limit is an emission limit. The Standards of Performance for VOC Emissions from the Polymers Manufacturing Industry also do not allow for the 6°C (10° F) temperature window that subpart JJJ allowed (by allowing the 3-hour average to be 6°C (10°F) warmer than the specified emission limitation). A temperature window is included in the Standards of Performance for VOC Emissions from the Polymers Manufacturing Industry, but it applies only when an owner or operator is using a condenser as a control device to meet a percent reduction requirement. Because the Standards of Performance for VOC Emissions from the Polymers Manufacturing Industry level of control was found to be the MACT floor, the changes described above make the provisions in §§ 63.1316 through 63.1320 consistent with the MACT floor.

Finally, the EPA is also proposing to change the continuous compliance demonstration averaging period from a 3-hour period to a 24-hour period in § 63.1318(d). As previously discussed in this preamble, the EPA is proposing this change to be consistent with other provisions of the rule which require compliance on a daily average basis.

Section 63.1319(b). The proposed changes to § 63.1319(b) are intended to clarify that this paragraph applies only to owners or operators complying with § 63.1316(b)(1)(i) (i.e., demonstrating that emissions are less than 0.12 kilogram of organic HAP per megagram of product at existing affected sources producing PET using a continuous dimethyl terephthalate process). The EPA is also proposing to remove § 63.1319(b)(2) of § 63.1319 and to renumber § 63.1319(b)(2)(ii) as § 63.1319(b)(2) as part of this change.

The proposed language in this paragraph also removes the requirement to record a list of each process variable change that may result in an increase in the mass emissions per mass product. The EPA believes that such a requirement is burdensome and unnecessary for subpart JJJ because, if changes are made that would increase mass emissions per mass product, those changes would qualify as process changes, and process changes are addressed in other sections of the rule (see 63.1310(i)(4)). Another proposed change to § 63.1319(b) is that the qualifying phrase ''up-to-date and readily accessible'' has been removed from the requirement to keep records. This qualifying phrase was redundant with the requirements of § 63.1335(d).

Section 63.1319(c). The proposed changes in § 63.1319(c) correspond to the proposed changes in § 63.1318(d) (described above). The proposed changes state that, instead of keeping records of monitoring data for each 3-hour averaging period (promulgated paragraph (c)(1)) and records of the initial performance test (promulgated

paragraph (c)(2)), the owner or operator shall keep records of the daily averages demonstrating continuous compliance.

Section 63.1320(b). The EPA is proposing to insert a parenthetical phrase, to improve the clarity of this paragraph.

Section 63.1320(b)(1) and (2). The proposed language in these paragraphs has been changed to reflect the changes made to § 63.1319(b).

Section 63.1320(b)(3). The proposed change to § 63.1320(b)(3) removes the requirement to submit a schedule for compliance, for the reasons laid out in section R.1 of this preamble.

Section 63.1320(c). The promulgated paragraph contained reporting requirements for affected sources complying with the temperature limit for final condensers based on the promulgated requirements for a performance test and parameter monitoring. The requirements of this paragraph are no longer applicable, and the EPA is proposing to ''reserve'' this paragraph.

I. Batch Process Vents—Proposed Changes to §§ 3.486 Through 63.492 and 63.1321 through 63.1327

1. Changes Common to Polymers and Resins I and IV

The proposed amendments contain changes to two fundamental parts of the batch process vent provisions: (1) the group determination procedures and (2) the batch cycle limitation. A brief outline of and rationale for the proposed amendments to the batch process vent provisions is provided below. In addition, the EPA is requesting comments, with this notice, on the EPA's intention of including similar revisions to rules modeled after the Polymers and Resins rules and/or rules that refer to the batch process vent provisions in the Polymers and Resins rules (e.g., the National Emission Standards for Hazardous Air Pollutants for Polyether Polyols Production, part 63, subpart PPP).

Batch Process Vent Group Determination. According to the proposed amendments, for each batch process vent the owner or operator must determine group status based on either (1) the expected mix of ''products'' (using the highest-HAP recipe for each product, including non-elastomer and non-thermoplastic products), or (2) annualized production of the single ''highest-HAP recipe'' considering all recipes for all products (including non-elastomer and non-thermoplastic products). The primary changes from the promulgated rules are that the proposed amendments clarify that all products (e.g., non-elastomer and non-thermoplastic products in addition to elastomer and thermoplastic products) are to be considered when the owner or operator is using either the expected mix of products or the single highest-HAP recipe option, and that the concept of ''worst-case HAP emitting product'' has been replaced with the concept of the ''highest-HAP recipe'' for a particular product or amongst a group of products.

If the expected mix option is selected for the batch process vent group determination, the emissions used for the group determination must be emissions when producing the highest-HAP recipe for each product in the expected mix of products produced by the affected source. If the single highest-HAP recipe option is selected for the batch process vent group determination, the determination is based on emissions from the annualized production of the highest-HAP recipe considering all products.

Important definitions to be added to clarify these requirements include the definitions for ''highest-HAP recipe'' and ''recipe''. ''Recipe'' is defined as a specific composition, from among the range of possible compositions that might occur within a product, and is determined by the proportions of monomers and, if present, other reactants and additives that are used to make the recipe. ''Highest-HAP recipe'' is the recipe with the highest total mass of HAP charged to the reactor. The EPA believes that determining the ''highest-HAP recipe'' is less difficult and burdensome than determining ''worst-case HAP emitting product,'' as was required at promulgation of subparts U and JJJ.

The concept of recipe has been added to distinguish between a ''recipe'' and the intended meaning of the term ''product.'' After the promulgation of subparts U and JJJ, some industry representatives interpreted the term ''product'' to mean the multiple variations of a given type of elastomer or thermoplastic. For example, a company may produce as many as 100 variations of styrene butadiene latex, where the variations could occur due to relatively minor changes (i.e., the type or amount of catalysts or additives, the ratio of monomers, etc). Some owners and operators interpreted the promulgated rules to mean that each of the 100 variations would be a different product. However, in the promulgated rule, it was the EPA's intent that owners and operators consider each of these 100 variations of styrene butadiene latex to be the same ''product.'' A revised definition of ''product'' has been included in today's proposal, in order to avoid any further confusion. The addition of the concept of ''recipe'' should further clarify the intent of the rule, and address the disconnect between the intended meaning of the term ''product'' and industry's interpretation of the term.

The EPA has determined that the promulgated process of first estimating emissions for all products produced in a unit operation, and then basing the group determination on the ''worst-case HAP emitting product'' at each individual emission point was unnecessarily burdensome. The EPA has concluded that, for a given product, the amount of HAP emitted is closely related to the amount of HAP charged to the reactor. Therefore, the EPA believes that the amount of HAP charged to the reactor is an acceptable surrogate for HAP emissions when selecting the recipe to use when performing the batch process vent group determination procedures. For batch process vents other than those at the reactor, the same recipe that was determined to be the ''highest-HAP'' recipe at the reactor is to be used when performing the group determination.

Requiring the use of the highest-HAP recipe when estimating emissions for the purposes of the group determination (instead of the ''worst-case HAP emitting product'') simplifies the group determination procedures, because an owner or operator is not required to make repetitive emission estimates to determine which product type to use when performing the group determination procedures. Instead, the revised procedures allow selection of the appropriate recipe for the purposes of the group determination based on the mass of HAP charged to the reactor, which is an objective characteristic of the recipe that is known by the owner or operator. Once the highest-HAP recipe is determined, the annual emissions for that recipe alone need to be determined and used in the batch process vent group determination procedures.

Batch Mass Input Limitation (formerly ''Batch Cycle Limitation''). The first major change that the EPA is proposing to the batch cycle limitation concept is that the units have changed from ''number of batches'' to ''mass input.'' The limitation for Group 2 batch process vents is no longer based on the number of batch ''cycles'' for the batch unit operation, but is now based on the total mass of HAP charged to the reactor or the total mass of material charged to other batch unit operations. Therefore, the name batch ''cycle'' limitation is no longer accurate. The EPA is proposing

to change the name of this limitation to ''batch mass input limitation.''

The purpose of the promulgated ''batch cycle limitation'' was to ensure that either the Group 2 batch process vent would not have annual emissions greater than 11,800 kg/yr, or that the Group 2 batch process vent would not have an annual average batch vent flow rate that exceeded its cutoff flow rate. In other words, the promulgated ''batch cycle limitation'' was intended to monitor an easily determined parameter (i.e., the number of batch cycles run) to verify that the vent did not become Group 1.

While the proposed change does not affect the purpose of the limitation (to verify that the vent does not become Group 1), it does change the basis of the limitation to a parameter that is more directly related to HAP emissions. The proposed change allows a certain amount of flexibility to owners or operators, so that they may implement manufacturing changes that may affect the number of batch cycles without affecting HAP emissions. Under the proposed amendments, larger batches or a larger number of batches may be used to produce an increased amount of product, as long as the total mass of HAP input to the reactor (or total mass of material input to other batch unit operations) does not increase beyond the established limitation. This not only allows owners and operators more operating flexibility, but produces an incentive to develop more efficient production methods.

Under the proposed amendments, the facility must determine the batch mass input limitation for each vent based on either (1) the expected mix of products (using the highest-HAP recipe for each product, and including non-elastomer products and non-thermoplastic products), or (2) annualized production of the single highest-HAP recipe considering all recipes for all products. The approach used to determine the batch mass input limitation must be the same one used in the group determination (described above), since the batch mass input limitation is intended to be a gauge for possible group changes. The emissions used when determining the batch mass input limitation for each Group 2 batch process vent must be calculated using the highest-HAP recipe for each product, if the expected mix of products option is selected, or the highest-HAP recipe considering all the recipes for all of the products, if the annualized production of the single highest-HAP recipe option is selected. The owner or operator must report the batch mass input limitation, keep records of the calculations, monitor the mass of HAP or material fed to the batch unit operation, and report the total mass of material fed to the batch unit operation each year.

There is one exemption from the proposed batch mass input limitation provisions: if the vent is Group 2 at the maximum design capacity of the process unit, then the owner or operator is exempt from the requirement to calculate a batch mass input limitation for that batch process vent (see §§ 63.487(h) and 63.1322(h)). The EPA is requesting comments on whether or not the ''maximum design capacity'' of a batch process vent is a readily definable parameter for these industries.

As opposed to the preceding explanations of proposed conceptual changes in the batch process vent requirements, the paragraphs below discuss changes to individual paragraphs or sets of paragraphs.

Sections 63.487(a)(1)(i) & (b)(1)(i), 63.1322(a)(1)(i) & (b)(1)(i), 63.491(b)(3)(ii), and 63.1326(b)(3)(ii). Flare requirements have been added to §§ 63.504(c) and 63.1333(e), to make it clear that a compliance demonstration for flares must be conducted using the provisions found in § 63.11(b), as will be explained further in Section O.1. of this preamble. Therefore, the EPA is proposing to change the reference in §§ 63.487(a)(1)(i) and (b)(1)(i) and 63.1322(a)(1)(i) and (b)(1)(i), and in §§ 63.491(b)(3)(ii) and 63.1326(b)(3)(ii) to refer owners and operators to the proposed paragraphs in §§ 63.504(c) and 63.1333(e).

Sections 63.487(b)(2) and 63.1322(b)(2). The EPA is proposing to add an alternative performance standard limit of 20 parts per million by volume (ppmv) for noncombustion control devices used to comply with the aggregate batch vent stream provisions in subparts U and JJJ. This option would be in addition to the present performance standard of 90 weight percent organic HAP reduction for each aggregate batch vent stream on a continuous basis. The addition of this lower bound concentration to the performance standard (§§ 63.487(b)(2) and 63.1322(b)(2)) will encourage the use of recovery devices, will allow for reuse of materials, and will remove an inequity between requirements for different types of control equipment. The EPA believes that dilution should not be a concern under the proposed amendments, because under most conditions there would not be significant amounts of dilution air in the aggregate batch vent stream, and that any attempts to circumvent the requirement through dilution could be easily detected. The EPA is proposing this change to the rule to provide a lower bound concentration level for use in cost effective design of control devices.

Sections 63.487(c)(1) and 63.1322(c)(1). The EPA is proposing to change the requirement to reduce ''overall emissions of hydrogen halides and halogens by 99 percent,'' to a requirement to reduce ''overall emissions of hydrogen halides and halogens by *at least* 99 percent,'' (emphasis added). There was some concern that the promulgated language could be misunderstood to mean that emission reductions greater than 99 percent would not be acceptable, and the proposed clarification is intended to eliminate such an interpretation of subparts U and JJJ. In addition, the EPA is proposing to replace the term ''control device'' when discussing the reduction of halogen emissions with the more precise term ''halogen reduction device,'' as appropriate, throughout subparts U and JJJ.

Sections 63.487(e) and 63.1322(e). The EPA is proposing to modify the structure of §§ 63.487(e) and 63.1322(e) to clarify the requirements when a batch process vent or aggregate batch vent stream is combined with a continuous process vent. The basic intent of these provisions has not changed from the promulgated rule, but the EPA believes that the proposed changes clarify this intent, which is briefly summarized below. If a batch process vent/aggregate batch vent stream is combined with a Group 1 continuous process vent prior to being routed to a combustion device, the combined vent stream is required to comply with the requirements for a Group 1 continuous vent. There are special conditions specified in §§ 63.485(o) and 63.1325(a)(13) for when performance tests are to be performed in this situation. If a batch process vent/aggregate batch vent stream is combined with a continuous process vent prior to being routed to a recovery device (i.e., before the group determination of the continuous process vent has been made), §§ 63.487(e)(1)(i) and 63.1322(e)(1)(iii) refer the owner or operator to §§ 63.485(o)(2) or 63.1325(a)(13)(ii), which specify how group determinations are conducted in this situation.

Finally, §§ 63.487(e)(2) and 63.1322(e)(2) specify the requirements when a batch process vent/aggregate batch vent stream is combined with a Group 2 continuous process vent. In this situation, the owner or operator is required to determine the group status of the batch process vent/aggregate batch vent stream prior to the

combination with the continuous vent and comply with the aggregate batch vent stream provisions in subparts U and JJJ, in accordance with the proposed paragraph at §§ 63.487(e)(2) and 63.1322(e)(2).

Sections 63.487(f) and (g) and 63.1322(f) and (g). These paragraphs reflect changes related to the batch mass input limitation discussed earlier in this section. The EPA is also proposing to add a provision which allows the owner or operator of a Group 2 batch process vent that is subject to §§ 63.487(f) and (g) or 63.1322(f) and (g) to comply with the requirements for Group 1 batch process vents, instead of establishing a batch mass input limitation.

Sections 63.487(h) and 63.1322(h). The EPA is proposing to add these provisions, which would exempt owners and operators of Group 2 batch process vents from the requirement to establish a batch mass input limitation if the emissions for the single highest-HAP recipe were used in the group determination, and, during the group determination, the owner or operator used the assumption that the batch unit operation would be operating at maximum design capacity of the EPPU for 12 months (and the results of the group determination were that the batch process vent was Group 2).

Sections 63.488(a)(1) and 63.1323(a)(1). The EPA is proposing to revise these paragraphs to reflect changes related to the group determination procedures (specifically, replacement of the worst-case HAP-emitting product with the highest-HAP recipe concept, discussed earlier in this section). In addition, the EPA is proposing several small clarifying changes.

Sections 63.488(b) and 63.1323(b). The EPA is proposing to amend and restructure this paragraph, to clarify (1) how to estimate emissions, (2) when it is appropriate to use the emission estimation equations, and (3) when it is acceptable to use other methods of estimating emissions. The EPA is also proposing text that clarifies that all standard reference will be permissible for obtaining individual component vapor pressure and molecular weights. Finally, the EPA is proposing to move regulatory language from promulgated §§ 63.488(b) and 63.1323(b) to proposed §§ 63.488(b)(9) and 63.1323(b)(9), respectively. The regulatory language that the EPA is proposing to move clarifies when it is appropriate to use Henry's Law or Raoult's Law to determine partial pressure, and is a distinct topic, best set off from the remainder of the main paragraph (b).

Sections 63.488(b)(1) through (b)(5), and 63.1323(b)(1) through (b)(5). The EPA is proposing a variety of clarifying language changes and cross-referencing corrections in these paragraphs.

Sections 63.488(b)(6) and 63.1323(b)(6). The provisions proposed under §§ 63.488(b)(6) and 63.1323(b)(6) clarify when it is acceptable for the owner or operator to use engineering assessment to estimate emissions from a batch emissions episode. At promulgation, §§ 63.488(b)(6)(ii) and 63.1323(b)(6)(ii) specified only that the emissions estimation equations would be considered inappropriate (thus allowing engineering assessment) if previous test data were available that showed a greater than 20 percent discrepancy between the test value and the estimated value, or if the owner or operator could demonstrate to the Administrator that the emissions estimations equations were inappropriate through ''any other means.'' The EPA believes that clearer guidance is warranted; therefore, the new paragraphs proposed as §§ 63.488(b)(6)(i)(A) through (C) and 63.1323(b)(6)(i)(A) through (C) provide clearer guidelines for determining when engineering assessment may be used in the place of the emissions estimation equations to estimate emissions from a batch emissions episode. For instance, under these proposed amendments, the owner or operator may use engineering assessment to estimate emissions from a batch emission episode if previous test data show more than a 20 percent discrepancy between the test value and the value estimated through use of the equations in §§ 63.488(b)(1) through (b)(4) or 63.1323(b)(1) through (b)(4). In addition, the text specifying the related reporting requirements was clarified.

Sections 63.488(d) and 63.1323(d). The EPA is proposing to clarify that the annual emissions being considered under these paragraphs are the annual emissions of total organic chemical (TOC) or organic HAP, and to clarify where and how annual emissions are determined (by cross-referencing the paragraphs that specify the correct procedures for determining annual emissions).

Sections 63.488(e), (g), and (h), and 63.1323(e), (g), and (h). As described in more detail above in the ''Definitions'' section, the EPA is proposing to replace the promulgated terms ''average flow rate'' and ''annual average flow rate'' with the terms ''average batch vent flow rate'' and ''annual average batch vent flow rate,'' throughout subparts U and JJJ, and is proposing definitions for these new terms. The new terms are used throughout §§ 63.488(e), (g), and (h), and 63.1323(e), (g), and (h), as well as in other appropriate places in the batch process vent provisions. Similarly, as described above, the EPA is proposing to define ''annual average concentration'' and ''annual average batch vent concentration'' separately in these amendments, and the new terminology is reflected in the proposed changes to §§ 63.488(e), (g), and (h), and 63.1323(e), (g), and (h).

Sections 63.488(i) and 63.1323(i). The EPA is proposing to add text to §§ 63.488(i)(1) and 63.1323(i)(1) that will help the owner or operator in distinguishing between events that are considered ''process changes'' and those that are not. The EPA is also proposing to add text that would clarify what is required once an owner or operator has determined that a process change has, or has not, occurred (e.g., redetermining the batch mass input limitation, and reporting the new batch mass input limitation, if appropriate). A provision stating that (for Group 2 batch process vents) changes that would reduce the batch mass input limitation are considered to be process changes, is also proposed to be added to §§ 63.488(i) and 63.1323(i). In addition, the EPA is proposing to add a provision in §§ 63.483(i)(1)(i) and 63.1313(i)(1)(i), stating that only changes that *increase* (as opposed to decrease) production capacity or production rate will be considered to be process changes. The proposed paragraphs §§ 63.488(i)(1)(ii) and (iii) and 63.1323(i)(1)(ii) and (iii) provide more specific examples of what would be considered to be a process change at a batch process vent, under these proposed amendments.

As mentioned above and explained more fully in Section R.1, the EPA is proposing to remove the concept of submitting compliance schedules throughout subparts U and JJJ. Accordingly, the EPA is proposing to remove the promulgated requirement to submit compliance schedules after process changes have been made to batch process vents, as discussed in §§ 63.488(i)(3)(i) and (ii), 63.1323(i)(3)(i) and (ii), and 63.492(b) and 63.1323(b).

Sections 63.489 and 63.1324. For the sake of clarity, the EPA is proposing to change the title of this section from ''Batch (front-end) process vents—monitoring requirements'' to ''Batch (front-end) process vents—monitoring equipment''. The section does not uniquely specify monitoring ''requirements'' so much as it discusses the requirements for different types of monitoring equipment.

Sections 63.489(a) and 63.1324(a). The proposed amendments to §§ 63.489(a) and 63.1324(a) incorporate

changes that originated in the HON amendments (§ 63.114(a)), and which are intended to clarify how monitoring equipment are to be operated if ''manufacturer's specifications'' do not exist or are not available. The proposed edits to §§ 63.489(a)(2) and 63.1324(a)(2) represent a clarification, specifying that it is the *daily average* of the monitored parameters that must remain above or below (as appropriate) the parameter monitoring level. The proposed changes also clarify that where exceptions (such as excused excursions) apply, the owner or operator is not in violation of the standard.

Sections 63.489(b) and 63.1324(c). The subheading of this paragraph contains a proposed change that would clarify that this paragraph addresses monitoring *equipment* for which parameters must be established, rather than providing specific monitoring parameters. The EPA is also proposing to replace the term ''flow meter'' with the more precise term ''flow measurement device,'' in §§ 63.489(b)(4)(ii) and 63.1324(c)(4)(ii) and in other places throughout subparts U and JJJ. The EPA is also proposing to add procedures for determining gas stream flow which parallel the amended HON text (§ 63.114(a)(4)(ii)(A) through (C)), in §§ 63.489(b)(4)(ii)(A) through (C) and 63.1324(c)(4)(ii)(A) through (C).

The proposed addition of §§ 63.489(b)(4)(ii)(A) through (C) and 63.1324(c)(4)(ii)(A) through (C) would constitute a correction to the requirements for continuous monitoring of gas flow entering an acid gas scrubber. In the promulgated rules, when a scrubber was used after a combustion device for halogenated streams, the owner or operator was required to use a flow meter with a continuous recorder at the scrubber inlet to measure gas flow. The EPA later received information that demonstrated that continuous monitoring of this acid gas stream would be impractical, due to the harsh conditions at the scrubber inlet. A continuous monitoring device would be expected to have a very short service life due to the combination of high temperature and corrosivity/low pH. Thus, it would be extremely costly for owners and operators to comply with the promulgated requirement for continuous monitoring of gas stream flow.

Therefore, the EPA is proposing to allow three different options for determining gas flow. Each of these options would provide sufficient data to determine a liquid/gas (L/G) ratio for use in monitoring operation of the acid gas scrubber.

The first option being proposed would allow owners or operators to determine gas flow to the scrubber by using the design blower capacity, with appropriate adjustments for pressure drop. This would provide a ''worst case'' gas flow. If the required compliance demonstration showed that a scrubber could meet the emission reduction requirements for hydrogen halides and halogens during these worst case flow conditions, the EPA anticipates that compliance would also be achieved during conditions of lower gas flow.

In the second proposed option, the EPA recognizes that some post-combustion scrubbers, regulated under RCRA requirements, are already required to determine an L/G ratio to demonstrate compliance with emission reduction requirements. The EPA is proposing that methods of determining gas flow which have been utilized to comply with pre-existing RCRA regulations should also be acceptable for the purposes of subparts U and JJJ. This proposed option also provides that a determination made before the compliance date for this rule may be used in the compliance demonstration if it is still representative.

Finally, the EPA is proposing that owners or operators may develop a gas flow determination plan. The plan would specify a reliable method for determining the gas stream flow, to provide a representative or at least a worst-case flow rate during representative operating conditions. Recordkeeping requirements would apply to these proposed provisions. The EPA believes that this performance-oriented option is necessary due to the wide variety of technologies and process configurations in existence. For example, owners and operators may utilize multiple scrubbers in series at a combustion unit, which may require a different approach to determining the gas flow than when a single scrubber is used.

Sections 63.489(b)(7) and 63.1324(c)(7). The EPA is also proposing to give the owner or operator a better idea of which parameters it is acceptable to monitor for a carbon adsorber, by replacing the term ''stream flow'' with the more precise phrase ''steam flow or nitrogen flow, or pressure (gauge or absolute),'' in §§ 63.489(b)(7) and 63.1324(c)(7) and in other places throughout subparts U and JJJ, as appropriate.

Sections 63.489(c) and 63.1324(d). The EPA is proposing to add a cross-reference to §§ 63.492(e) and 63.1327(f) (the reporting requirements for batch process vents) in addition to the references to §§ 63.506(f) and 63.1335(f) (the general recordkeeping requirements), in situations where the owner or operator is requesting to monitor alternative parameters.

Sections 63.489(d) and 63.1324(e). The EPA is proposing to remove the promulgated paragraph §§ 63.489(d)(3) and 63.1324(e)(3), because §§ 63.489(d)(1) and (d)(2) and 63.1324(e)(1) and (e)(2) provide sufficient specifications for monitoring requirements associated with bypass lines. By continuously monitoring a parameter (as discussed in §§ 63.489(d)(3) or 63.1324(e)(3)), an owner or operator is plainly taking a reading ''at least once every 15 minutes,'' which is the option given under §§ 63.489(d)(1) and 63.1324(e)(1). In addition, the EPA is proposing to change the phrase ''bypass line valve'' to ''bypass line damper or valve,'' to incorporate the concept that either a damper or valve could function as the by-pass mechanism.

Sections 63.489(e)(1), 63.1324(f)(1), 63.490(b)(3), and 63.1325(b)(3). The EPA is proposing to make a change to these paragraphs that is parallel to the change made in the amended HON (§ 63.114(e)), allowing data obtained from prior performance tests to be used, provided that the prior performance test was conducted for determining compliance with a regulation promulgated by the EPA. Further proposed requirements include the specification that the test had to have been conducted using the same Methods specified in these rules and that either no deliberate process changes have been made since the test, or the owner or operator can demonstrate that the results of the performance test reliably demonstrate compliance despite process changes.

Sections 63.489(e)(1)(ii) and 63.1324(f)(1)(ii): The EPA is proposing to amend this paragraph to clarify that the ''control efficiency requirement'' is an emission reduction of 90 percent by explicitly stating the emission reduction requirement.

Sections 63.490(a) and 63.1325(a). The EPA is proposing to refer to the flare requirements that the EPA has proposed to add at §§ 63.504(c) and 63.1333(e), to make it clear that a compliance demonstration for flares must be conducted using the provisions found in § 63.11(b), as will be explained further in Section O.1. of this preamble.

Sections 63.490(b)(3) and 63.1325(b)(3). As discussed below under *''Sections 63.490(b)(6) and 63.1325(b)(6),''* the proposed changes to §§ 63.490(b)(3) and 63.1325(b)(3) make these paragraphs more general, so that

they cover the situations that, at promulgation, it took two paragraphs ((b)(3) and (b)(6)) to cover. The proposed changes to §§ 63.490(b)(3) and 63.1325(b)(3) allow an owner or operator to not do a performance test for a control device for which a prior performance test was conducted for the purpose of determining compliance with another regulation promulgated by the EPA, as long as the Methods used for that performance test are the same as those required in §§ 63.490 and 63.1325, and no significant process changes have been made since the prior performance test was conducted.

Sections 63.490(b)(5) and 63.1325(b)(5). The EPA is proposing changes to these paragraphs that would clarify the original intent of the paragraph (which was that an owner or operator would be exempt from conducting a performance test on an incinerator that was in compliance with 40 CFR part 264, subpart O). In addition, the proposed changes to these paragraphs specify that owners and operators of interim-status hazardous waste incinerators are also exempt from the requirement to conduct a performance test for those incinerators.

Sections 63.490(b)(6) and 63.1325(b)(6) (promulgated). The EPA is proposing to remove §§ 63.490(b)(6) and 63.1325(b)(6), because the proposed amendments to §§ 63.490(b)(3) and 63.1325(b)(3) make the promulgated §§ 63.490(b)(6) and 63.1325(b)(6) unnecessary. Both of the promulgated paragraphs (i.e., (b)(3) and (b)(6)) discussed when results from a previously conducted performance test could be used in lieu of conducting a new performance test. At promulgation, paragraphs §§ 63.490(b)(3) and 63.1325(b)(3) were specific to tests conducted for compliance with a New Source Performance Standard, and paragraphs §§ 63.490(b)(6) and 63.1325(b)(6) addressed tests conducted for compliance with ''other subparts in 40 CFR part 60 or part 63.'' Both ideas are now expressed in §§ 63.490(b)(3) and 63.1325(b)(3), as described above. As a result of this proposed change, the EPA is also proposing to remove the text from § 63.1325(b) that discussed § 63.1325(b)(6).

Sections 63.490(c)(1)(i)(B) and 63.1325(c)(1)(i)(B). The EPA is proposing to add text to clarify that references to particulate matter in Method 1A do not apply for the purposes of subparts U and JJJ. This proposed addition verifies that Method 1A is an acceptable method for selecting sampling sites at small (less than twelve inches in diameter) pipes and ducts.

Sections 63.490(c)(1)(ii), (iii), and (v) and 63.1325(c)(1)(ii), (iii), and (v). The EPA is proposing to add text to these paragraphs to clarify the intended meaning and to reflect the use of new terminology (e.g., average batch vent concentration) that the EPA is proposing to add definitions for in §§ 63.482(b) and 63.1312(b).

Sections 63.490(d) and 63.1325(d). The proposed changes to §§ 63.490(d)(1) through (5) and 63.1325(d)(1) through (5) also reflect the use of newly defined terminology such as ''average batch vent concentration.'' In addition, the EPA is proposing to replace the term ''control device'' with the more precise term ''halogen reduction device'' in these paragraphs.

Sections 63.490(d)(3) and 63.1325(d)(3). The proposed edit to these paragraphs is a correction. The phrase ''and multiplying by 100'' needed to be added to the end of each paragraph in order for *percent* reduction to be the outcome of the procedures described in those paragraphs.

Sections 63.490(e)(2) and 63.1325(e)(2). The proposed addition of these paragraphs clarifies how the owner or operator of an aggregate batch vent stream is supposed to apply the performance testing procedures in § 63.116(c) to aggregate batch vent streams (i.e., the new paragraphs clarify that a 90 percent reduction is required, rather than the 98 percent reduction specified in § 63.116(c)(4)).

Sections 63.490(f) and 63.1325(g). These paragraphs reflect changes related to the concepts of batch mass input limitation and highest-HAP recipe, which were discussed at the beginning of this section (I.1.) as general concepts.

Sections 63.491(a) and 63.1326(a). The EPA is proposing to add language to this paragraph that refers to the proposed provisions in §§ 63.491(a)(9) and 63.1326(a)(9). The proposed provisions in §§ 63.491(a)(9) and 63.1326(a)(9) discuss the recordkeeping requirements for Group 2 batch process vents that are exempt from the batch mass input limitations, under proposed paragraphs §§ 63.487(h) and 63.1322(h).

Sections 63.491(a)(1) through (3) and 63.1326(a)(1) through (3). The EPA is proposing changes to these paragraphs, in order to be consistent with the proposed approach of using a batch mass input limitation, and the use of the ''highest-HAP recipe'' for batch process vent group determinations. These proposed approaches are discussed in more detail earlier in this Preamble. The proposed additions of §§ 63.491(a)(2)(i) and (ii) and 63.1326(a)(2)(i) and (ii) clarify that if the expected mix of products option is used for the group determination, records must be kept of the emission estimates during the production of the highest-HAP recipe for each unique product included in the expected mix, while if the single highest-HAP recipe (considering all products) option is used for the group determination, then only records of emission estimates during the production of the single highest-HAP recipe must be kept.

Sections 63.491(a)(7) & (8) and 63.1326(a)(7) & (8). With the proposed edits to these paragraphs, the EPA is proposing a recordkeeping burden reduction, in that certain group determination records would no longer be required to be kept for Group 1 batch process vents or aggregate batch vent streams that are using control devices to achieve compliance. This proposed change is consistent with many other instances in subparts U and JJJ where owners and operators are no longer ''required'' to keep records, if those records are contained in a report that has been submitted to the EPA in accordance with these subparts. The proposed reduction in the recordkeeping burden is accomplished by removing the promulgated paragraphs §§ 63.491(a)(8) and 63.1326(a)(8), and by removing the condition that the control device must be operating at all times during the batch emission episode from the recordkeeping exemption in §§ 63.491(a)(7) and 63.1326(a)(7).

In addition, the EPA is proposing to remove the requirement that these emission points already be in compliance with the Group 1 requirements in order to be exempt from the recordkeeping requirements, to avoid instances in which industry might be subject to ''double penalties'' for being out of compliance with the Group 1 requirements as well as for not having kept the group determination records. Instead, the EPA has proposed to replace the phrase ''in compliance with'' with the phrase ''subject to'' in reference to the Group 1 requirements contained in §§ 63.487(a) and (b) and 63.1322(a) and (b).

Sections 63.491(a)(9) and 63.1326(a)(9). The EPA is proposing to add new paragraphs at §§ 63.491(a)(9) and 63.1326(a)(9), describing the minimal recordkeeping requirements for Group 2 batch process vents that are exempt from the batch mass input limitation provisions. The proposed recordkeeping requirements for those emission points only require the owner or operator to maintain documentation of the maximum design capacity of the EPPU or TPPU, and of the mass of HAP or material that can be charged annually

to the batch unit operation at the maximum design capacity.

Sections 63.491(b), 63.1326(b), and elsewhere throughout both rules. The EPA is proposing to remove the phrase ''up-to-date'' from the recordkeeping requirements, because that phrase does not actually state the frequency with which records must be ''up-dated.'' The EPA believes that the regulatory text, minus the phrase ''up-to-date'', is sufficient to convey the EPA's intent, which was that the owner or operator must maintain all records that are required under these subparts.

Sections 63.491(b)(2) and 63.1326(b)(2). The EPA is proposing to amend these paragraphs to reflect the fact that the owner or operator of the batch process vent has the choice of complying with § 63.487 (a)(1) or (a)(2) for batch front-end process vents under subpart U, or of complying with § 63.1326(a)(1) or (a)(2) for batch process vents (except those being used to produce SAN) under subpart JJJ.

Sections 63.491(b)(3)(ii) and (iii); 63.1326(b)(3) (ii) and (iii); and elsewhere. The EPA is proposing to refer to the flare requirements that the EPA has proposed to add at §§ 63.504(c) and 63.1333(e), to make it clear that a compliance demonstration for flares must be conducted using the provisions found in § 63.11(b), as will be explained further in Section O.1. of this preamble.

The EPA is also proposing to clarify, throughout both rules (including in §§ 63.491(b)(3)(iii) and 63.1326(b)(3)(iii)), that only instances in which *all* pilot flames are absent (at a particular vent) must be recorded. In other words, if one pilot flame is absent, but a backup pilot flame is present at the process vent, the owner or operator need not record the incident.

Sections 63.491(d) and 63.1326(d). These paragraphs reflect changes related to the concept of batch mass input limitation, which was discussed earlier in this section.

Sections 63.491(e)(1)(i) & (ii) and 63.1326(e)(1)(i) & (ii). The EPA is proposing clarifying edits to these paragraphs, by specifying that the records described in Table 6 of subpart U and Table 7 of subpart JJJ, which list the monitoring, recordkeeping, and reporting requirements for Group 1 batch process vents, shall be ''maintained in place of continuous records (or batch cycle daily averages)'' instead of being ''kept rather than averages,'' because the word ''averages'' does not apply to all of monitored parameter values required by those tables. The language being proposed in §§ 63.491(e)(1)(i) and (ii) and 63.1326(e)(1)(i) and (ii) is now specific to the control devices listed in those paragraphs (i.e., flares and carbon adsorbers).

Sections 63.491(e)(2)(ii) and 63.1326(e)(2)(ii). The EPA is proposing to amend these paragraphs to clarify that monitoring data recorded during (1) periods of non-operation of the EPPU/TPPU (or specific portion thereof) resulting in cessation of organic HAP emissions, or (2) periods of start-up, shutdown, or malfunction, are not to be included in the computation of batch cycle daily averages. The EPA is also requesting comments on the idea of incorporating similar changes into § 63.1430(d)(2)(i) of subpart PPP, the Polyether Polyols Production NESHAP.

Sections 63.491(f) and 63.1326(f). The EPA is proposing to amend these paragraphs so that, instead of referring to the recordkeeping requirements in §§ 63.118(a) and (b), 63.491(f) and 63.1326(f) will list the appropriate recordkeeping requirements for aggregate batch vent streams. This proposed change does not alter existing requirements; rather, it simply lists the applicable provisions in subparts U and JJJ directly, rather than cross-referencing the HON provisions.

Sections 63.491(g) and 63.1326(g). The EPA is proposing to add these paragraphs, which describe the documentation requirements associated with establishing the batch mass input limitation. This proposed language replaces the promulgated language that appeared in §§ 63.490(f)(2) and 63.1325(g)(2), which described the documentation requirements accompanying the establishment of a batch cycle limitation. As an example, one difference between the promulgated provisions and those proposed under today's action include the fact that, under proposed §§ 63.491(g) and 63.1326(g), the owner or operator must identify whether or not they will be using the ''highest-HAP recipe'' to establish the batch mass input limitation, instead of having to identify whether or not they will be using the ''worst-case HAP emitting product,'' (to establish the ''batch cycle limitation'') as was required in the promulgated rule. This general change (from the ''worst-case'' concept to the ''highest-HAP'' concept) was discussed more fully at the beginning of this section of the preamble (I.1.)

Sections 63.492(a)(5) and 63.1327(a)(5). The proposed amendments include these new paragraphs, which provide reporting requirements for Group 2 batch process vents that are exempt from the batch mass input limitation provisions. As discussed earlier in this section, in order for a Group 2 batch process vent to be exempt from the batch mass input limitation provisions, the owner or operator will have had to conduct the group determination using the single highest-HAP recipe while assuming that the batch unit operation was operating at maximum design capacity for 12 months.

Sections 63.492(a)(6) and 63.1327(a)(6). The EPA is proposing to add this paragraph to clarify that the owner or operator who has chosen to use engineering assessment to estimate emissions from a batch emissions episode must submit, as part of the Notification of Compliance Status, a report stating that the criteria for being able to do so (in §§ 63.488(b)(6)(i) (A) and (B) and 63.1323(b)(6)(i) (A) and (B)) have been met.

Sections 63.492(b) and (c) and 63.1327(b), (c), and (d). These paragraphs reflect the EPA's proposal to remove all requirements related to submitting a schedule for compliance, as addressed earlier in this preamble under the discussion of proposed changes to §§ 63.480(i)(2) and 63.1310(i)(2). In addition, the text describing the submittal date of the report referenced by these paragraphs has been rewritten to clarify the intended meaning (i.e., that a description of the process change must be submitted to the Administrator within 180 days after the process change, or in the next Periodic Report, whichever is later). Finally, in paragraphs §§ 63.492(c) and 63.1327(c), the EPA is proposing to remove the requirement to submit the results of the redetermination of annual emissions, annual average batch vent flow rate, and cutoff flow rate, because the EPA has determined that this requirement represents an unnecessary reporting burden for industry.

Sections 63.492(d)(2) and 63.1327(e)(2). Sections 63.492(d) and 63.1327(e) specify the conditions under which an owner or operator is not required to submit a report of a process change. In §§ 63.492(d)(2) and 63.1327(e)(2), the EPA is proposing to add the condition that ''the batch mass input limitation does not decrease'' to the list of circumstances for which a report of a process change is not required. There may be circumstances in which a process change will not affect the group status of a batch process vent or increase emissions in excess of the cutoff, but the process change will necessitate a decrease in the batch mass input limitation. Such a decrease in the batch mass input limitation needs to be reported because compliance with the batch mass input limitation is necessary

to ensure that a Group 2 batch process vent remains a Group 2 batch process vent.

Sections 63.492(f) and 63.1327(g). The EPA is proposing changes to these paragraphs reflecting the EPA's decision that a damper could also be used as a bypass mechanism.

2. Changes Unique to Polymers and Resins I

Section 63.489(b)(4). The EPA is proposing to add the phrase ''or halogenated aggregate batch vent streams'' after the phrase ''halogenated batch front-end process vents,'' to clarify that the monitoring equipment is required whenever an incinerator, boiler, or process heater is used in concert with the combustion of emissions from either type of emission point.

Section 63.490(c)(1)(i)(D). The EPA is proposing amendatory language to this paragraph to indicate that other methods or data that have been validated according to the applicable procedures in Method 301, 40 CFR part 63, appendix A, may be used to determine the concentration of organic HAP or TOC.

Section 63.491(e)(3) & (4). The proposed amendments to these paragraphs will clarify that it is the *diversion* of flow, rather than flow itself, that the flow indicator is detecting. In addition, the EPA is proposing to remove the redundant requirement to record the ''duration'' of periods when flow is diverted away from a control device from § 63.491(e)(3). Section 63.491(e)(3) continues to require the owner or operator to maintain a record of the *times* of all diversions, from which the duration of the periods could always be calculated. The EPA is also proposing to remove text that refers to the requirements in § 63.489(d)(3) (which have been deleted in these proposed amendments) from § 63.491(e)(4).

Section 63.492(a). The phrase ''or aggregate batch vent stream'' has been added in the proposed amendments to this paragraph, to clarify that these reporting requirements apply to both owners and operators of batch front-end process vents and owners and operators of aggregate batch vent streams.

3. Changes Unique to Polymers and Resins IV

Section 63.1321(d). The EPA is proposing to add this paragraph to clarify that owners or operators producing ASA/AMSAN shall comply with paragraph § 63.1315(e), under these proposed amendments.

Section 63.1323(j). The EPA is proposing to make changes to this paragraph to implement the concept proposed in § 63.1310(i)(1)(i) that process changes are only changes that increase (as opposed to decrease) production capacity or production rate. The implementation of this concept for this paragraph is phrased as ''process changes * * * that could reasonably be expected to adversely impact the compliance status (i.e., achievement of 84 percent emission reduction).'' In addition, the cross-reference to the requirement to submit a compliance schedule has been removed from proposed § 63.1323(j)(3) and the timeframe for compliance is set by the provisions of § 63.1310(i); removal of the requirement for submission of compliance schedules is discussed more fully in Section B.1.

J. Back-end Provisions— Proposed Changes to §§ 63.493 Through 63.500 (Polymers and Resins I Only)

Section 63.493. The introductory text to the back-end provisions of subpart U has been amended slightly in this proposal, to clarify which producers are exempt from the back-end provisions. The promulgated language reads ''Owners and operators of affected sources that produce only latex products, liquid rubber products, or products in a gas-phased polymerization reaction are not subject to * * *'' The proposed language that would replace the promulgated language reads, ''Owners and operators of affected sources whose only elastomer products are latex products, liquid rubber products, or products produced in a gas-phased reaction process are not subject * * *.'' The proposed edits should clarify that this exemption applies to owners and operators of affected sources (i.e., those that produce elastomers).

Section 63.494(a). The EPA is proposing an amendment to this paragraph that will clarify the location at which the residual monomer in products must be determined, by adding a cross-reference to § 63.495(d) (which states the procedures for determining the sampling location), and by specifying that the measurement must be taken after the reactor, if the affected source does not have strippers. This latter clarification was necessary because at promulgation the rule gave no guidance as to where the sampling site for residual organic HAP should be at an affected source that did not have strippers.

Section 63.494(a)(4). At promulgation, this paragraph listed elastomer products for which there were no back-end process residual organic HAP limitations. The EPA is proposing to modify this paragraph to state that there are also no back-end process residual HAP limitations for styrene butadiene rubber produced by any process other than a solution process, polybutadiene rubber produced by any process other than a solution process, and ethylene-propylene rubber produced by any process other than a solution process.

Section 63.494(d). The EPA is proposing to add this paragraph to specify which requirements the owner or operator must follow if they are complying with the residual HAP limitations by using a flare.

Section 63.495(b)(2)(i) and (ii). The proposed amendments contain a minor change in terminology in these two paragraphs and elsewhere throughout the rule (e.g., § 63.497(a)), from ''batch (or continuous) stripping'' at promulgation, to ''a stripper operated in batch (or continuous) mode'' in the proposed amendments. As described in greater detail in Section II.D of this notice, the EPA is proposing to define the term ''stripper'' and to define the term ''stripping'' instead of the term ''stripping technology.''

Section 63.495(b)(5). The proposed amendment to this paragraph specifies that samples taken during a start-up, shutdown, or malfunction should not be included in the monthly weighted average. It is the EPA position that such samples are not ''representative'' of the back-end process for the month during which the start-up, shutdown, or malfunction occurred.

Section 63.496(b)(5)(i). The EPA is proposing to amend this paragraph in order to clarify the intended meaning of the promulgated paragraph, which was that sampling sites for inlet emissions shall be located at the exit of the back-end process unit operation, and that sampling sites for outlet emissions shall be located at the outlet of the control or recovery device.

Section 63.496(b)(5)(i)(A) and (B). The proposed edits to these paragraphs are meant to clarify that equipment in compliance with the equipment leak provisions do not constitute opportunities for emission to the atmosphere, for the purpose of these paragraphs.

Section 63.496(b)(6)(iv). The EPA is proposing a minor edit to this paragraph, so that the actual equation number (Equation 30) is explicitly mentioned, rather than implicitly referring to the equation, as the language did at promulgation.

Section 63.496(b)(7)(i). The EPA is proposing to refer to the flare requirements that the EPA has proposed

to add at § 63.504(c), to make it clear that a compliance demonstration for flares must be conducted using the provisions found in § 63.11(b), as will be explained further in Section O.1. of this preamble.

Section 63.496(b)(7)(iv). The proposed changes to this paragraph would exempt owners and operators from conducting another source test to determine the outlet organic HAP emissions from a specific control device if a performance test was conducted for determining compliance with another regulation promulgated by the EPA for the same control device. The prior performance test would have to have been conducted using the same Methods specified in subpart U, with no deliberate process changes having been made since the test. The EPA is also proposing that the owner or operator be permitted to demonstrate that the results of the performance test, with or without adjustments, reliably demonstrate compliance despite process changes.

Section 63.496(b)(7)(vi). The EPA is proposing to add this paragraph so that there is an exemption for RCRA incinerators in addition to the promulgated exemption for RCRA boilers and process heaters (which is in § 63.496(b)(7)(v)), because there was no technical reason to offer this exemption for boilers and process heaters, but not offer it for incinerators.

Section 63.497(a)(6). For the same reasons given earlier under ''*Section 63.489(b),*'' the EPA is proposing to replace the phrase ''regeneration stream flow'' with the phrase ''regeneration steam flow, nitrogen flow, or pressure (gauge or absolute).'' This same change will be evident in several other places in the proposed amendments (e.g., in Table 6 of subpart U).

Section 63.497(c). The EPA is proposing edits to this paragraph to clarify that it is the ''daily average value'' of the parameter monitoring levels that must be within the bounds of the limit, and to clarify that this paragraph does not apply when subpart U otherwise permits a deviation from the parameter monitoring limit.

Sections 63.497(d) and (d)(3), and 63.498(d)(5)(iv). The EPA is proposing to remove promulgated § 63.497(d)(3), because § 63.497(d)(1) and (d)(2), in conjunction with § 63.498(d)(5)(iii), have been determined to cover the requirement to continuously monitor the bypass line damper or valve position in the promulgated § 63.497(d)(3), making (d)(3) redundant and unnecessary. For the same reason, the EPA is proposing to remove part of § 63.498(d)(5)(iv), and ''reserve'' § 63.498(d)(5)(iv)(B), which specified the recordkeeping requirements associated with § 63.497(d)(3).

Sections 63.498(a)(1)–(3), 63.498(d), 63.499(a)(1)–(3), and 63.499(c)(3). The EPA is proposing to remove the requirement to keep records of the information listed in § 63.498(a)(1) through (3). The information requested under § 63.498(a)(1) through (3) is readily apparent upon inspection of the facility. Further, that information is also reported to the Administrator in the Notification of Compliance Status, as is required under the proposed amendments to § 63.499(a)(1) through (3).

Similarly, the EPA is proposing to remove the requirement to keep records of the information listed in the promulgated paragraphs § 63.498(d)(2) through (4), because that information is all reported to the EPA according to other provisions of the rule (or is being proposed as a reporting requirement under § 63.499(c)(3)). In addition, a small clarifying edit is being proposed for § 63.498(d)(5)(i).

Section 63.498(d)(5)(ii)(B). The EPA is proposing to add a sentence to this paragraph, clarifying that monitoring data recorded during periods of non-operation of the EPPU (resulting in cessation of organic HAP emissions) or during periods of start-up, shutdown, or malfunction shall not be included in computing the hourly or daily averages for a control or recovery device on a back-end process. The reason for this proposed change is that the EPA believes that data recorded during those time periods are not representative of the hour or day in which the period of non-operation of the EPPU (resulting in cessation of organic HAP emissions), start-up, shutdown, or malfunction occurred.

Section 63.500(d)(2). The EPA is proposing to use the term ''shortstop agent'' rather than the term ''shortstop'' throughout this paragraph, in order to better reflect common terminology used in the elastomer production industry.

K. Process Contact Cooling Tower Provisions—Proposed Changes to § 63.1329 (Polymers and Resins IV Only)

Section 63.1329(a). The EPA is proposing to reorganize and rewrite this paragraph, to clarify its intended meaning. The intended meaning of the promulgated paragraph, and the more obvious meaning of the proposed paragraph, is that the owner or operator of a new affected PET source must comply with the new affected source requirements in § 63.1329(b), and that the owner or operator of an existing affected source that produces PET using a continuous terepthalic acid high viscosity multiple end finisher that utilizes a process contact cooling tower must comply with the existing affected source requirements in § 63.1329(c).

Section 63.1329(c). The EPA is proposing to add text to this paragraph to clarify the intended meaning. Specifically, text is being proposed that states that owners or operators complying with this paragraph § 63.1329(c) must also comply with the wastewater provisions specified in § 63.1330 for process wastewater streams sent to the process contact cooling tower.

Section 63.1329(c)(1)(i). The EPA is proposing to remove text from this paragraph that discussed violations of the standard. Compliance with the standard is discussed elsewhere in the rule and ''violations'' do not need to be discussed in this paragraph or section.

Section 63.1329(c)(1)(iii). The EPA is proposing to add definitions of the terms used in Equation 27, which were inadvertently left out at promulgation (i.e., ''CI_{95}'' and ''X_i'').

L. Wastewater Provisions— Proposed Changes to §§ 63.501 and 63.1330

1. Changes Common to Polymers and Resins I and IV

As mentioned earlier in this preamble, several cross-referencing and clarifying changes need to be made to §§ 63.501 and 63.1330 as a result of the extensive amendments to the HON wastewater provisions, which both §§ 63.501 and 63.1330 reference. For example, § 63.149 of the HON, which was formerly ''Reserved'', now contains control requirements for certain liquid streams in open systems. Because the requirements in this new section (§ 63.149) are also appropriate for subpart U and JJJ affected sources, references to the HON wastewater provisions in subparts U and JJJ were changed from ''§§ 63.131 through 63.148'' to ''§§ 63.132 through 63.147 of subpart G for each process wastewater stream originating at an affected source,'' ''§ 63.148 of subpart G for leak inspection provisions,'' and ''§ 63.149 of subpart G for equipment that is subject to § 63.149.'' Section 63.131 has been dropped from the list because it is now ''reserved'' in the HON. In addition, new ''exceptions'' were required, to reflect the promulgated amendments to the HON wastewater provisions. For subpart U, these ''exceptions'' are proposed as paragraphs § 63.501(a)(5) through (a)(13), (a)(17), (a)(18), and (a)(21) through (a)(23). For subpart JJJ, these exceptions are proposed as paragraphs § 63.1330(b)(4) through (b)(12), (b)(15), (b)(16), and (b)(20)

through (b)(22). In addition, the EPA is proposing to remove promulgated §§ 63.501(a)(3) and (a)(4) and 63.1330(b)(6) and (b)(7) because the HON requirements referenced by these paragraphs were removed as part of the revisions to the HON wastewater provisions.

Other changes to §§ 63.501 and 63.1330 include various cross-reference updates necessitated by the re-organization of the HON recordkeeping and reporting provisions, which are contained in §§ 63.151 and 63.152 of subpart G, and are referenced frequently throughout §§ 63.132 through 63.149 of subpart G. One slightly more substantive change is being proposed in §§ 63.501(a)(19) and 63.1330(b)(18), as discussed in greater detail below.

Sections 63.501(a) and 63.1330(a). For subpart U, the EPA is proposing to reorganize this paragraph to clarify its intended meaning. For subpart JJJ, the EPA is proposing to add this paragraph to clarify the organization of the section. For both rules, the EPA is proposing additions that reflect changes in the HON provisions (e.g., the addition of references to § 63.149).

Sections 63.501(a)(4) (promulgated (a)(5)) and 63.1330(b)(3) (promulgated (a)(3)). The EPA is proposing to rewrite these paragraphs to clarify their intended meaning, which is that owners and operators who are making requests to monitor alternative parameters must follow the procedures in §§ 63.506(g) and 63.1335(g), rather than the procedures in §§ 63.151(g) and 63.152(e).

Sections 63.501(a)(14) and (a)(15) and 63.1330(b)(13) and (b)(14) (promulgated (a)(4) and (a)(5)). The EPA is proposing to add text to these paragraphs to clarify the intended meaning. It appeared that there was some confusion, prior to the proposed changes being made, over whether owners and operators were required to submit reports (e.g., the Notification of Compliance Status and Periodic Reports) under both the requirements in the HON and the requirements in subpart U or JJJ. The proposed amendments clarify that the EPA only expects owners or operators of a subpart U or a subpart JJJ affected source to fulfill the reporting requirements specified in subpart U or subpart JJJ, respectively.

Sections 63.501(a)(19) and 63.1330(b)(18): Process Wastewater Streams Containing Styrene. The EPA is also proposing to add a paragraph at §§ 63.501(a)(19) and at 63.1330(b)(18), which allows process wastewater streams that contain styrene to be excluded when calculating the required mass removal (RMR) or the actual mass removal (AMR) for open or closed aerobic biological treatment processes. As part of the public comments received on the proposed rules, it was brought to the attention of the EPA that styrene can clog steam strippers, and the promulgated rules were intended to allow process wastewater streams containing styrene to be sent directly to biological treatment units, without steam stripping and without being included in the subsequent RMR and AMR calculations.

However, the promulgated rules mistakenly provided this exemption for all process wastewater streams. Therefore, in addition to presenting the concept of exempting certain process wastewater streams from RMR and AMR calculations more clearly, the proposed revisions correct the error of exempting all process wastewater streams from inclusion in the RMR and AMR calculations. The newly proposed paragraphs §§ 63.501(a)(19) and 63.1330(b)(18) also specify when a process wastewater stream is considered to contain styrene.

Sections 63.501(d) (promulgated) and 63.1330(a)(12) (promulgated). The EPA is proposing to remove these paragraphs and replace them with §§ 63.501(a)(9) and 63.1330(b)(7), respectively. The promulgated paragraphs discussed relying on the compliance dates contained in these rules instead of the compliance dates contained in the HON. The EPA believes that this provision would be less likely to be overlooked by including it earlier in the section, with all of the other ''exceptions'' to the HON wastewater requirements.

2. Changes Unique to Polymers and Resins I

Section 63.501(a)(3). The EPA is proposing to add this paragraph to correct an error in the promulgated rule. As was described in the promulgation preamble, the EPA determined that new affected sources should be subject to the same wastewater requirements as existing sources. The EPA believes that the promulgated rule was not clear about the fact that new Group I Polymers and Resins affected sources are only subject to the existing source wastewater requirements in the HON. The proposed addition of § 63.501(a)(3) clarifies the EPA's original intent, by clearly stating that Group 1 wastewater streams at new affected sources are not subject to the HON new source requirements for wastewater, and by stating that owners and operators of new affected elastomer sources must comply with the requirements for existing sources in §§ 63.132 through 63.149.

M. Equipment Leak Provisions—Proposed Changes to §§ 63.502 and 63.1331

1. Changes Common to Polymers and Resins I and IV

Sections 63.502(c) and 63.1331(a)(2). The EPA is proposing to amend these paragraphs in order to clarify that the HON compliance dates do not apply to owners and operators with regard to equipment leaks. In addition, the EPA is proposing that owners and operators should follow the provisions in §§ 63.481(e) and 63.1311(e), when requesting a compliance date extension, no matter what the emission point is (i.e., for equipment leaks as well as all other emission points).

Sections 63.502(f) and (g), and 63.1331(a)(4) and (5). The proposed changes to these paragraphs are meant to clarify the intended meaning of the promulgated paragraphs (§§ 63.502(h) and (i), and 63.1331(a)(4) and (5)), and do not constitute a significant deviation from the promulgated language. Proposed §§ 63.502(f) and 63.1331(a)(4) clearly state that the owners and operators of affected sources must submit the Notification of Compliance Status (for compliance with the equipment leak provisions) within 150 days after the sources are required to be in compliance with those equipment leak provisions, instead of within 90 days, as § 63.182(a)(2) and (c) of subpart H required. Similarly, §§ 63.502(g) and 63.1334(a)(5) state that the information that subpart H requires to be submitted in Periodic Reports (via §§ 63.182(a)(3) and (d)) must instead be submitted according to the requirements in §§ 63.506(e)(6) and 63.1335(e)(6).

Sections 63.502(h) and 63.1331(a)(10). The EPA is proposing to add these paragraphs, which reflect the amendments to § 63.100(e)(3), in order to clarify guidelines under which equipment may be aggregated, even if different administrative organizations (e.g., different companies, affiliates, departments, divisions, etc.) are responsible for the management of the equipment in question.

Section 63.502(i). The EPA is proposing to add this paragraph to clarify that only organic HAP listed on Table 5 of subpart U that are also listed on Table 9 of subpart G need to be considered when subpart H refers to Table 9 of subpart G.

Sections 63.502(k) and 63.1331(a)(13). The EPA is proposing to add paragraphs as §§ 63.502(k) and 63.1331(a)(13) which tell owners or operators what to do in the event that they are using a flare to comply with the equipment leak provisions, and need to do a compliance

demonstration for that flare. It is not anticipated that this will be a common occurrence, but the EPA decided that it was prudent to have a provision in the rule to handle this situation, in the event that it arises at a facility.

Sections 63.502(l) and 63.1331(a)(11). These proposed paragraphs refer to the definitions of ''equipment'' (for both subparts U and JJJ) and ''equipment leaks'' (subpart JJJ only) which the EPA is proposing to add in §§ 63.482 and 63.1312, in order to distinguish between the use of those terms in subparts U and JJJ and the use of those same terms in subpart H, as described in greater detail in the ''Definitions'' section above.

Sections 63.502(m) and 63.1331(a)(12). The EPA is proposing to clarify the language in § 63.1331(a)(12) by removing the word ''substitute'' (which could have multiple meanings), and is proposing to add a parallel paragraph to § 63.502(m). Both §§ 63.1331(a)(12) and 63.502(m) specify how owners and operators of subpart JJJ or U affected sources are supposed to interpret references to subparts F and I, in the HON equipment leak provisions (subpart H).

2. Changes Unique to Polymers and Resins I

The Title to § 63.502. The EPA is proposing to rename § 63.502, due to the fact that the heat exchange provisions are also contained in this section.

Section 63.502(b)(1) through (7). In these paragraphs, the EPA is proposing changes to clarify the intended meaning. First, the intent of the promulgated paragraphs was that only surge control vessels and bottoms receivers that were *dedicated* to the specified elastomer products or intermediates listed in § 63.502(b)(1) through (7) be exempt from the equipment leak provisions. The EPA did not intend that surge control vessels and bottoms receivers containing small amounts of those elastomer products or intermediates be exempt from the equipment leak provisions. Therefore, the language has been changed to exempt surge control vessels and bottoms receivers ''that receive only'' the specified material, as opposed to exempting those ''containing'' the specified material. Paragraph § 63.502(b)(2) was also further reworded to clarify that ''other latex products'' was intended to mean latex products ''other than styrene-butadiene latex.''

Section 63.502(d). In the promulgation preamble, the EPA explained that an exclusion was being added for reciprocating pumps that must leak small quantities of product to lubricate and cool the shaft and seal areas (61 FR 46923). Therefore, § 63.502(d), which states that the presence of liquids dripping from bleed ports in pumps and agitator seals in light liquid service is not to be considered a leak, was added at promulgation of subpart U. However, the EPA also intended to address other situations that occur with reciprocating pumps, but neglected to do so at promulgation. Therefore, the EPA is proposing to add exemptions from the equipment leak provisions for reciprocating pumps in heavy liquid service, and for reciprocating pumps in light liquid service, if recasting the distance piece, or reciprocating pump replacement, is required.

Section 63.502(e). The EPA is proposing to remove the promulgated § 63.502(e) because it is redundant, considering the provisions contained in § 63.481(h). The proposed § 63.502(e) was promulgated as § 63.502(g).

Section 63.502(f). The EPA is proposing to move the requirements that were promulgated under § 63.502(f) for heat exchange systems to the end of the section, in order to clarify that they are separate from the equipment leak provisions. In these proposed amendments, the heat exchange system provisions are in § 63.502(l). Other changes to these provisions are discussed in greater detail in section N.I. of this preamble.

Section 63.502(i). The EPA is proposing to add this paragraph to clarify that only organic HAP listed on Table 5 of subpart U that are also listed on Table 9 of subpart G need to be considered when subpart H refers to Table 9 of subpart G.

Section 63.502(j). The EPA is proposing to add this paragraph, which parallels the promulgated paragraph in § 63.1311(a)(8), in order to allow owners and operators the option of using Method 25A (40 CFR part 60) instead of Method 18 (40 CFR part 60) when the equipment leak provisions found in the HON specify that Method 18 (40 CFR part 60) must be used.

3. Changes Unique to Polymers and Resins IV

Section 63.1331(a)(6). The EPA is proposing to revise this paragraph to clarify its intended meaning.

Section 63.1331(a)(6)(iii) and (iv). In § 63.1331(a)(6)(iii) and (iv), the EPA is proposing to add new exceptions from the requirements in subpart H to clarify how owners and operators are expected to comply with the requirements of paragraph § 63.1331(a)(6). These additional exceptions are being proposed in order to remove contradictions concerning compliance demonstrations that were created by the promulgated rule. The EPA is also proposing to remove the promulgated paragraph § 63.1331(a)(7), because § 63.1331(a)(6)(iii) and (iv) now provide subpart JJJ specific guidance for developing an initial list of identification numbers for pumps, valves, connectors, and agitators in heavy liquid service; pressure relief devices in light liquid or heavy liquid service; and instrumentation systems.

Section 63.1331(a)(7). The EPA is proposing to add a new paragraph as § 63.1331(a)(7), to clarify that owners and operators do not need to refer to the organic HAP list in Table 9 of subpart G, as directed under § 63.166(b)(4)(i). The owner or operator only needs to assess whether or not organic HAP listed on table 6 of subpart JJJ are present and to comply with the provisions of this section for those organic HAP, except ethylene glycol (to which the provisions cited by § 63.1331(a)(7) do not apply).

Section 63.1331(a)(9). The EPA is proposing to remove this paragraph, due to the fact that the EPA is also proposing to consider surge control vessels and bottoms receivers to be subject to the equipment leak provisions. This proposed change would make subpart JJJ consistent with subpart U, with regard to how it handles surge control vessels and bottoms receivers, but it will not cause any change in the actual control requirements for surge control vessels and bottoms receivers.

Section 63.1331(b). This paragraph has been reorganized and rewritten to clarify the intended meaning.

N. Heat Exchange System Provisions—Proposed Changes to §§ 63.502(l) and 63.1328

1. Changes Common to Polymers and Resins I and IV

Sections 63.502(n)(1) through (n)(6) and 63.1328(a) through (g). The EPA is proposing to add explanations of how the requirements in § 63.104 for heat exchange systems apply to subpart U and JJJ affected sources. These proposed paragraphs, added as §§ 63.502(n)(1) through (6) and 63.1328(c) through (g), provide the specific requirements (e.g., compliance dates and reporting requirements) that are applicable to heat exchange systems subject to subpart U and subpart JJJ. In addition, proposed § 63.1328(a) has been reorganized and rewritten to clarify the intended meaning, and the EPA is proposing to add § 63.1328(b) as part of this clarification.

2. Changes Unique to Polymers and Resins I

Sections 63.502(f) and 63.502(n). As mentioned earlier, the EPA is proposing to move the promulgated paragraph § 63.502(f) to the end of § 63.502 (as § 63.502(n)) to clearly separate the heat exchange systems from the equipment leak provisions.

O. Performance Testing—Proposed Changes to §§ 63.504 and 63.1333

1. Changes Common to Polymers and Resins I and IV

Title of the Sections. The EPA is proposing to change the title of §§ 63.504 and 63.1333 to ''Additional requirements for performance testing'' because this title more accurately conveys the contents of these sections than did the promulgated title ''Additional test methods and procedures.''

Sections 63.504(a)(1) and 63.1333(a)(1). In order to account for factors that might make the ''maximum representative operating conditions'' unreasonable to achieve, the EPA is proposing to modify the concept. First, the proposed changes specify that the operating conditions must be ''achievable'' during either the 6-month period that ends two months before the Notification of Compliance Status is due, or during the 6-month period that begins 3 months before the performance test and ends 3 months after the performance test.

Second, the proposed changes specify that testing is not required under conditions that (1) would cause damage to equipment; (2) would necessitate that the owner or operator make product that does not meet an existing specification for sale to a customer; or (3) would necessitate that the owner or operator make product in excess of demand.

Sections 63.504(a)(4) and 63.1333(a)(4). The EPA is proposing to add language to these paragraphs in order to specify that the owner or operator needs to give the Administrator at least 7 days (prior to the originally scheduled performance test) notice if a performance test needs to be rescheduled. The proposed changes also allow the performance test to be rescheduled by mutual agreement between the Administrator and the owner or operator, if necessary.

Sections 63.504(a)(5) and 63.1333(a)(5). The EPA is proposing to add these paragraphs to clarify that performance tests must be conducted no later than 150 days after the applicable compliance dates. Section 63.7(a)(2)(iii) in the General Provisions provides for performance tests to be conducted ''within 180 days after the compliance date'' of a standard. However, because the Notification of Compliance Status for subparts U and JJJ is due 150 days after the compliance dates for the different emission points, giving owners and operators 180 days ''after the compliance date'' of the rules will not work under subparts U and JJJ, because that would infer that performance tests could be completed up to 30 days after the Notification of Compliance Status was due. That is not the intent; performance tests must be conducted early enough to be included in the Notification of Compliance Status, which is due 150 days after the compliance dates specified in subparts U and JJJ, according to §§ 63.506(e)(5) and 63.1335(e)(5). With these proposed amendments, the EPA is also replacing the phrase ''within 180 days after,'' which was used in the General Provisions, with the phrase ''no later than 150 days,'' because the latter phrase clarifies that the Notification of Compliance Status is due *after* the compliance date, according to subparts U and JJJ.

Sections 63.504(c) and 63.1333(e). The EPA is proposing to add these paragraphs because, in their promulgated form, both subpart U and subpart JJJ referred to § 63.11(b) for determining compliance with the flare requirements. The EPA is proposing to add §§ 63.504(c) and 63.1333(e), to make it clear that a compliance demonstration for flares must be conducted using the provisions found in § 63.11(b). Specifically, the proposed paragraphs require that the owner or operator (1) conduct a visible emission test, (2) determine the net heating value of the gas being combusted, and (3) determine the exit velocity. In each case, the provisions specify that these parameters be determined in accordance with specific paragraphs in § 63.11. Paragraphs §§ 63.504(c) and 63.1333(e) also specify that an owner or operator is not required to conduct a performance test to determine percent emission reductions or outlet organic HAP or TOC concentrations for flares. In addition, the proposed paragraphs specify that a previously conducted flare compliance demonstration may be used to demonstrate compliance, provided that no deliberate process changes have been made since the compliance demonstration, or the results of the compliance demonstration reliably demonstrate compliance despite process changes. The EPA is also requesting comments on the idea of adding similar language as § 63.1437(c) in subpart PPP, the Polyether Polyols Production NESHAP.

P. Parameter Monitoring Levels and Excursions—Proposed Changes to §§ 63.505 and 63.1334

1. Changes Common to Polymers and Resins I and IV

Sections 63.505(a) and 63.1334(a). Significant revisions to this paragraph are being proposed for a variety of reasons, having mostly to do with possible misinterpretations of the promulgated paragraphs §§ 63.505(a) and 63.1334(a). The promulgated language could be read to imply that the procedures for determining parameter monitoring levels contained in §§ 63.505(c) and (d) and 63.1334(c) and (d) were ''unapproved,'' whereas the intent of the paragraph was to specify that parameter monitoring levels established using those provisions were subject to approval by the Administrator. The proposed language in §§ 63.505(a) and 63.1334(a) is very explicit about which procedures (i.e., those contained in §§ 63.505(b), (c), or (d) or 63.1334(b), (c), or (d)) are permissible under varying circumstances. Corresponding revisions are also being proposed, to §§ 63.506(e)(3) and 63.1335(e)(3) to provide instructions on how to submit information that requires approval by the Administrator.

Sections 63.505(a)(1) and 63.1334(a)(1). As with proposed § 63.497(c), these paragraphs are being proposed to clarify that it is the ''daily average value'' of the parameter monitoring levels that must be within the bounds of the limit, and not necessarily each data point. In addition, similar to proposed § 63.497(c), these paragraphs also make clear that they do not apply when subpart U or JJJ otherwise permits a deviation from a parameter monitoring limit.

Sections 63.505(a)(2) and 63.1334(a)(2). The EPA is proposing edits to these paragraphs to clarify how the established parameter monitoring levels should be submitted to the EPA.

Sections 63.505(b) and 63.1334(b). The EPA is proposing amendments to §§ 63.505(b) and 63.1334(b) to clarify that they only apply to owners and operators who elect to establish a parameter monitoring level for a control, recovery, or recapture device based *exclusively* on parameter values measured during performance tests. The EPA is proposing to ''reserve'' §§ 63.505(b)(1) and 63.1334(b)(1), which were inconsistent with the objective of the promulgated §§ 63.506(b) and 63.1335(b), because the promulgated

§§ 63.505(b)(1) and 63.1334(b)(1) allowed the owner or operator to consider engineering assessments and/or manufacturer's recommendations in addition to measured parameter values when establishing the parameter monitoring level. Engineering assessment and/or manufacturer's recommendations may be used under §§ 63.505(c) and (d) and 63.1334(c) and (d), when appropriate, but are not permitted to be used under §§ 63.505(b) or 63.1334(b), because, as proposed, §§ 63.505(b) and 63.1334(b) provide procedures for establishing parameter monitoring levels based *exclusively* on performance tests.

The EPA is proposing to remove the promulgated paragraphs at §§ 63.505(b)(3)(i)(A) and 63.1334(b)(3)(i)(A) (which required continuous parameter monitoring when batch emission episodes are being vented to control devices), because promulgated paragraphs §§ 63.505(b)(3)(i)(A) and 63.1334(b)(3)(i)(A) are no longer necessary, in that the proposed changes to the parent paragraph, §§ 63.505(b)(3) and 63.1334(b)(3), require the owner or operator to test and record monitoring data during the ''entire episode.'' In proposed paragraphs §§ 63.505(b)(3)(i)(B) and (C) and 63.1334(b)(3)(i)(B) and (C), the EPA has added an explanatory phrase at the end of each paragraph, clarifying how maximum and minimum parameter monitoring levels are to be established.

Sections 63.505(c) and (d) and 63.1334(c) and (d). The EPA is proposing to amend §§ 63.505(c) and 63.1334(c) in an effort to clarify the original intent of the paragraph, which is that owners and operators have the option of supplementing performance tests with engineering assessments and/or manufacturer's recommendations, and are not required to conduct performance tests over the entire range of expected parameter values. Similarly, the EPA is proposing to amend §§ 63.505(d) and 63.1334(d) to clarify that these provisions apply to owners and operators who have the option of choosing, and have chosen, to establish their parameter monitoring levels based exclusively on engineering assessments and/or manufacturer's recommendations. Further, proposed changes to §§ 63.505(a) and 63.1334(a) clarify that if the owner or operator selects §§ 63.505(c) or (d), or 63.1334(c) or (d) as the means of establishing parameter monitoring levels for control, recovery, or recapture devices, the information listed in §§ 63.506(e)(3)(viii) or 63.1335(e)(3)(vii) must be included in the Precompliance Report and is subject to review by the Administrator.

Sections 63.505(f), (g)(1), and (g)(2); and 63.1334(e), (f)(1), and (f)(2). With these amendments to subparts U and JJJ, the EPA is proposing to ''reserve'' §§ 63.505(f) and 63.1334(e), while amending §§ 63.505(g) and 63.1334(f) to include all the circumstances that constitute parameter monitoring excursions. In promulgated §§ 63.505(f) and 63.1334(e), the only global compliance requirement addressed was that owners and operators shall be ''deemed out of compliance'' for each parameter monitoring excursion (except, of course, for excused excursions). The EPA believes that it is more appropriate to include this provision regarding excursions under the definition of parameter monitoring excursions that is found in §§ 63.505(g) and 63.1334(f), and has revised §§ 63.505(g) and 63.1334(f) accordingly, in these proposed amendments.

In addition to the proposed changes described above, the EPA is proposing to add paragraphs §§ 63.505(g)(1)(v)(A) through (E), 63.505(g)(2)(ii)(B)(*1*) through (*4*), 63.1334(f)(1)(v)(A) through (E), and 63.1334(f)(2)(ii)(B)(*1*) through (*4*), describing the periods that are not to be included when determining the period of control or recovery device operation. Under the proposed amendments, those periods are not to be used when determining if sufficient monitoring data are available (under the provisions of §§ 63.505(g)(1)(ii), (g)(1)(iii), or (g)(2)(ii); or 63.1334(f)(1)(ii), (f)(1)(iii), or (f)(2)(ii)) for the owner or operator to avoid having an excursion. The periods that must be omitted when determining the period of control or recovery device operation include periods of monitoring system breakdowns, repairs, calibration checks, and zero (low-level) and high-level adjustments; start-ups; shutdowns; malfunctions; and periods of non-operation of the affected source that result in the cessation of emissions to which the monitoring applies.

The proposed changes to §§ 63.505 and 63.1334 also incorporate changes that were made in the HON amendments to § 63.152. The HON served as a model for the requirements related to start-up, shutdown, and malfunction situations in subparts U and JJJ. The HON amendments specified that start-up, shutdown, and malfunction situations and periods of non-operation of the affected source (or portion thereof) that caused the owner or operator to be unable to collect sufficient monitoring data, or which resulted in data that would have otherwise indicated that an excursion had taken place, were not to be considered ''excursions.'' The EPA proposes to incorporate this concept into §§ 63.1334(f) and 63.505(g). In addition, the EPA is proposing to add specifications under §§ 63.505(g)(2)(ii)(A) through (D) and 63.1334(f)(2)(ii)(A) through (D), to assist the owner or operator in making the determination of whether or not monitoring data will be considered ''insufficient'' for an operating day.

The HON amendments also specified that monitoring data recorded during such periods were not to be included in any average computed under subpart G. The EPA is proposing to incorporate similar provisions into §§ 63.506(d)(7) and 63.1335(d)(7), as discussed in more detail in the preamble to the proposed HON amendments (see table 2 of this preamble). To be consistent with this stance, the EPA is proposing to add clarifying provisions under §§ 63.505(g)(2)(ii)(B)(*1*) through (*4*) and 63.1334(f)(2)(ii)(B)(*1*) through (*4*), stating that those time periods should be subtracted from the ''operating time'' used to determine whether monitoring data are sufficient.

Sections 63.505(g)(3) and 63.1334(f)(3). Because daily average values will not be meaningful in the case of storage vessels that are not required to be continuously monitored, the EPA is proposing to add §§ 63.505(g)(3) and 63.1334(f)(3), which describe what would constitute an excursion for a storage vessel that is not required to be continuously monitored (provisions for storage vessels that are required to be continuously monitored are in §§ 63.505(g)(1) and 63.1334(f)(1)). The excursion criteria listed in §§ 63.505(g)(3) and 63.1334(f)(3) depend on the monitoring criteria set out in the storage vessel's monitoring plan, and do not depend on parameters having been continuously monitored.

2. Changes Unique to Polymers and Resins I

Section 63.505(h). The change that the EPA is proposing in § 63.505(h) is to add the reminder that ''For each excursion, the owner or operator shall be deemed out of compliance with the provisions of this subpart, except as provided in paragraph (i) of this section,'' to the end of § 63.505(h), to account for the decision to ''reserve'' § 63.505(f), which, at promulgation, included the concept of excused excursions in back-end operations.

3. Changes Unique to Polymers and Resins IV

Section 63.1334(f)(4) through (7). The EPA is proposing to add these four

paragraphs to address four other events that the EPA considers to be ''excursions.'' Briefly, these proposed ''excursion'' descriptions include: (1) Instances when the mass emission rate exceeds the appropriate mass emissions per mass product at a continuous process vent complying with the mass emissions per mass product requirements in § 63.1315; (2) instances when the mass emission rate exceeds the appropriate mass emissions per mass product at a continuous process vent complying with the mass emissions per mass product requirements in § 63.1316; (3) instances when the daily average exit temperature exceeds the appropriate condenser temperature limit at a continuous process vent complying with the temperature limits for final condensers; and (4) instances when the percent reduction is less than 84 percent at a new affected source producing SAN using a batch process.

Q. General Recordkeeping and Reporting—Proposed Changes to §§ 63.506 and 63.1335

1. Changes Common to Polymers and Resins I and IV

Sections 63.506(a) and 63.1335(a). Under the changes proposed to §§ 63.506(a) and 63.1335(a), the EPA is proposing to remove the requirement for an owner or operator to maintain copies of reports, if those reports were required to be submitted to the EPA and have been submitted to the appropriate EPA Regional Office. In addition, under the proposed amendments, if the EPA Regional Office has waived the requirement for submittal of reports to the Region, the owner or operator is not required to maintain copies of those reports. These revisions are being proposed due to industry's concern that misplacing a copy of a report would be a violation, even though the report had been properly submitted to the EPA. This was not the EPA's intent.

The proposed revisions to §§ 63.506(a) and 63.1335(a) are also intended to reduce the volume of records that must be stored on-site. Industry representatives have expressed concern that on-site storage is often limited and more costly than off-site storage. Under the promulgated versions of subparts U and JJJ, the most recent 5 years of records were required to be kept, but the rules were silent on where these records could be stored. These proposed revisions would specify that at least the most recent 6 months' worth of records be stored on-site or be available within 2 hours by any means. The remaining 4 and one half years worth of records may be retained off-site, under these proposed amendments.

Sections 63.506(b)(1) and 63.1335(b)(1). The HON was silent on the issue of whether or not monitoring equipment could be ''shut off'' during a start-up, shutdown, or malfunction. The language that the EPA is proposing to add to §§ 63.506(b)(1) and 63.1335(b)(1) allows monitoring equipment to be shutdown during a start-up, shutdown, or malfunction only if the monitor would be damaged or destroyed as a result of the start-up, shutdown, or malfunction. The owner or operator may only do so, however, if they have included a provision in the Start-up, Shutdown, and Malfunction Plan, setting forth the circumstances under which monitoring equipment may be shutdown. Getting such a provision in the Start-up, Shutdown, and Malfunction Plan requires the owner or operator to submit a request, and rationale defending the request, in the Precompliance Report or in a supplement to the Precompliance Report. If the request is not denied by the Administrator within 45 days after receiving the request, it can then be incorporated into the Start-up, Shutdown, Malfunction Plan. The changes described above are contained in the proposed amendments to §§ 63.506(b)(1), (e)(3), (e)(3)(i), (e)(3)(viii), and (e)(3)(ix), and 63.1335(b)(1), (e)(3), (e)(3)(i), (e)(3)(viii), and (e)(3)(ix).

These proposed changes are meant to strike a balance between the EPA's decision to require that monitoring data be collected at all relevant times and industry's concern that valuable monitoring equipment could be damaged during a start-up, shutdown, or malfunction. The proposed changes are intended to provide protection for monitoring equipment during those periods, while providing the EPA with assurance that monitoring equipment is not being ''shut off'' indiscriminately.

Under another proposed change to §§ 63.506(b)(1) and 63.1335(b)(1), text related to incorporating the Start-up, Shutdown, and Malfunction Plan into the operating permit has been removed. Because the Start-up, Shutdown, and Malfunction Plan is meant to be a document that can be easily changed to account for new start-up, shutdown, and malfunction situations, the burden of including the plan in the operating permit (thereby requiring a modification to the operating permit to include new start-up, shutdown, and malfunction situations) was judged to be overly burdensome for subpart U and JJJ affected sources. For this reason, the EPA is proposing changes to §§ 63.506(b)(1) and 63.1335(b)(1) that require owners or operators to only keep the Start-up, Shutdown, and Malfunction Plan ''on-site,'' rather than requiring that it be ''incorporated by reference'' into the operating permit, as was done at promulgation.

Sections 63.506(b)(1)(i) and 63.1335(b)(1)(i). In these paragraphs and their subparagraphs, the EPA is proposing the addition of the concept that records of the occurrence and duration of start-up, shutdown, and malfunctions are only required if such periods result in excess emissions. Consistent with other proposed amendments discussed in this preamble, the EPA is proposing this change to reduce the recordkeeping burden upon the owner or operator of an affected source that has not experienced a violation of the rule. This change is also intended to protect the owner or operator from being subject to their Start-up, Shutdown, Malfunction plan during periods when the source is not operating. The EPA is also proposing to move the promulgated §§ 63.506(b)(1)(i)(C) to 63.506(d)(8) and 63.1335(b)(1)(i)(C) to 63.1335(d)(8), because although promulgated §§ 63.506(b)(1)(i)(C) and 63.1335(b)(1)(i)(C) contained recordkeeping requirements, they were not directly related to records that must be kept during periods of start-up, shutdown, or malfunction.

Sections 63.506(c) and 63.1335(c). The EPA is proposing to ''reserve'' these paragraphs due to the fact that all of the recordkeeping and reporting requirements that are related to subpart H of this part (equipment leaks) are now specified elsewhere in subparts U and JJJ (primarily in §§ 63.502, 63.1331, 63.506, 63.1335, table 8 of subpart U, and table 9 of subpart JJJ).

Sections 63.506(d) and 63.1335(d). In §§ 63.506(d) and 63.1335(d), the EPA is proposing to add language clarifying the recordkeeping requirements for owners and operators of storage vessels (which may or may not require continuous recordkeeping, as described in §§ 63.484(k) and 63.1314(a)(9)). Other minor edits are being proposed, to improve the clarity of the subparagraphs under §§ 63.506(d) and 63.1335(d), as explained briefly below.

Sections 63.506(d)(3) and 63.1335(d)(3). Minor edits are being proposed to improve the clarity of these paragraphs. The EPA is proposing to add the phrase ''except as specified in paragraph (d)(7) of this section'' to the requirement to calculate daily average values and batch cycle daily average values as the average of all recorded parameter values, in §§ 63.506(d)(3)(i)

and 63.1335(d)(3)(i). In addition, the EPA is proposing to add the phrase ''for purposes of determining daily average values or batch cycle daily average values of monitored parameters'' to the requirement to establish the source's ''operating day'' in §§ 63.506(d)(3)(ii) and 63.1335(d)(3)(ii).

Sections 63.506(d)(4) and (5) and 63.1335(d)(4) and (5). The EPA is proposing to ''reserve'' these two paragraphs to correct an error in the promulgated rule. In response to public comment, the EPA reduced the burden of the recordkeeping requirements described in paragraph §§ 63.506(d)(2) and 63.1335(d)(2) for the final rule by no longer requiring owners or operators to record 15-minute averages. In promulgating the final rule, the EPA failed to recognize that the promulgated change to §§ 63.506(d)(2) and 63.1335(d)(2) made §§ 63.506(d)(4) and (5) and § 63.1335(d)(4) and (d)(5) unnecessary, because §§ 63.506(d)(2) and 63.1335(d)(2) required the owner or operator to record either each measured data value or block average values for 1 hour or shorter periods calculated from all measured data values during each period. Sections 63.506(a) and 63.1335(a) describe the data retention requirements for subpart U and JJJ affected sources.

Sections 63.506(d)(6) and 63.1335(d)(6). The EPA is proposing to change the heading for paragraphs §§ 63.506(d)(6) and 63.1335(d)(6) to read ''Records required when all recorded values are within the established limits'' instead of ''Records required when all recorded values are in compliance.'' This change is proposed partly because it is not the ''recorded values'' that are in (or out of) compliance, and partly because not all periods when recorded values are outside of established limits are periods of non-compliance (for example, during excused excursions).

Sections 63.506(d)(7) and 63.1335(d)(7). The EPA is proposing to revise these paragraphs to clarify that data recorded during periods of start-up, shutdown, malfunction, or non-operation resulting in cessation of emissions are not excursions and that data recorded during those periods are not to be included in any averages under subpart U or JJJ. The EPA is also requesting comments on the idea of incorporating similar changes into § 63.1439(d)(7) of subpart PPP, the Polyether Polyols Production NESHAP.

Sections 63.506(d)(7)–(10) and 63.1335(d)(7)–(10) (promulgated). The EPA is proposing to remove the requirements that were promulgated as §§ 63.506(d)(8) through (10) and 63.1335(d)(8) through (10) to further reduce the recordkeeping burden associated with subparts U and JJJ, and (in the case of §§ 63.506(d)(9) and 63.1335(d)(9)) to remain consistent with proposed changes to §§ 63.480(b) and 63.1310(b). The concept that was formerly addressed in §§ 63.506(d)(8) and 63.1335(d)(8) is proposed to be incorporated into §§ 63.506(d)(7) and 63.1335(d)(7). The proposed amendments to §§ 63.480(b) and 63.1310(b); 63.480(f) and 63.1310(f); and 63.506(d)(9) and 63.1335(d)(9) allow owners or operators the option of providing ''documents on demand,'' in an effort to reduce the recordkeeping burden associated with subparts U and JJJ.

As discussed previously, the EPA is proposing to move a provision related to continuous monitoring system recordkeeping that was promulgated under §§ 63.506(b)(1)(i)(C) and 63.1335(b)(1)(i)(C) to 63.506(d)(8) and 63.1335(d)(8), respectively. This change is being proposed because the requirement contained in §§ 63.506(b)(1)(i)(C) and 63.1335(b)(1)(i)(C) did not belong in the section on Start-up, Shutdown, and Malfunction Plans.

Finally, the EPA is proposing to add paragraphs (§§ 63.506(d)(9) and 63.1335(d)(9)) which are modified versions of a requirement found in § 63.10(b)(2)(xii) of the General Provisions. This change is being proposed as a further measure to reduce the recordkeeping burden imposed by subparts U and JJJ on owners and operators, by overriding § 63.10(b) generally, while incorporating the necessary recordkeeping requirements from § 63.10(b) into subparts U and JJJ, and omitting those recordkeeping requirements in § 63.10(b) that are not necessary to adequately ensure compliance with subparts U and JJJ.

Sections 63.506(e) and 63.1335(e). The EPA is proposing to make promulgated §§ 63.506(e)(1) and 63.1335(e)(1) into proposed §§ 63.506(e) and 63.1335(e), and to reflect the proposed addition of Table 9 to subparts U and JJJ, which will identify all standard reports required under these subparts, in the proposed language in §§ 63.506(e) and 63.1335(e).

Sections 63.506(e)(1) and 63.1335(e)(1). The EPA is proposing to add a provision under §§ 63.506(e)(1) and 63.1335(e)(1) which would allow for the later submission of any information that is required to be included in a report under §§ 63.506(e) and 63.1335(e). The EPA believes that it is logical and fair to allow owners and operators to submit new information after the due date of a particular report, if the information was not known in time for submission in that report. Proposed paragraphs §§ 63.506(e)(1)(iii) and 63.1335(e)(1)(iii) specify the timeframes and mechanisms available to owners and operators for submitting information for later inclusion in a report.

Sections 63.506(e)(2) and 63.1335(e)(2). The EPA is proposing to edit this paragraph so that it is clear that reports only need to be submitted (for each affected source) to the Administrator at the one, appropriate address listed in § 63.13. As promulgated, §§ 63.506(e)(2) and 63.1335(e)(2) could have been interpreted to mean that all reports had to be sent to all of the addresses listed in § 63.13.

Sections 63.506(e)(3) and 63.1335(e)(3). The EPA is proposing to add two other instances (besides those promulgated) of actions that would require prior approval, to the list of items to be contained in the Precompliance Report. These additional actions include the intent to use engineering assessment (instead of the emission estimation equations) to estimate emissions from a batch emission episode (as described in §§ 63.488(b)(6)(i) and 63.1323(b)(6)(i)); and the intent to include a provision in the Start-up, Shutdown, Malfunction Plan that would allow specific monitors to cease to collect data during a start-up, shutdown, or malfunction, if those monitors would be damaged or destroyed as a result of the start-up, shutdown, or malfunction (proposed under §§ 63.506(e)(3)(viii) and 63.1335(e)(3)(viii)). The rationale for requiring these items in the Precompliance Report has been discussed previously in this Preamble (under ''*Sections 63.506(b)(1) and 63.1335(b)(1).*'')

Sections 63.506(e)(3)(i) and 63.1335(e)(3)(i). The EPA is proposing to add two provisions in paragraphs §§ 63.1335(e)(3)(i) and 63.506(e)(3)(i). The first specifies that if the Administrator does not object to a request submitted in the Precompliance Report within 45 days of receiving such a request, that request will be considered to be ''approved'' by the Administrator. This proposed change would provide a firm date by which the owner or operator would know that the requests in their Precompliance Report have been approved, and will place the burden on the EPA to review these reports and respond promptly if further information is needed. The second specifies that supplements to the Precompliance Report may be submitted. The EPA is also proposing

the addition of §§ 63.506(e)(3)(ix) and 63.1335(e)(3)(ix), to implement this change. As discussed in relation to the proposed changes to paragraphs §§ 63.506(e)(1) and 63.1335(e)(1), the EPA has determined that it is logical and fair to allow owners and operators to submit new information after the due date of a particular report, if the information was not known in time for submission in the original report.

Sections 63.506(e)(3)(ii) and 63.1335(e)(3)(ii). These proposed amendments contain a change to §§ 63.506(e)(3)(ii) and 63.1335(e)(3)(ii) to permit owners and operators to request a compliance extension (as allowed under §§ 63.481(e) or 63.1311(e)), through the Precompliance Report. This proposed change is made to provide consistency with the proposed changes to §§ 63.481(e) and 63.1311(e), which incorporate changes based on the promulgated HON amendments regarding the submittal of compliance extensions.

Sections 63.506(e)(3)(iv) and 63.1315(e)(3)(iv). The EPA proposes to simplify these paragraphs by collapsing their subparagraphs (§§ 63.506(e)(3)(iv)(A) and (B), and 63.1315(e)(3)(iv)(A) and (B)), which were largely redundant with the parent §§ 63.506(e)(3)(iv) and 63.1335(e)(3)(iv), into §§ 63.506(e)(3)(iv) and 63.1335(e)(3)(iv).

Sections 63.506(e)(3)(v) and 63.1335(e)(3)(v). Proposed changes to §§ 63.506(e)(3)(v) and 63.1335(e)(3)(v) clarify the original intent of this paragraph by rearranging the wording of the paragraph. The proposed change clarifies that the Administrator shall determine whether the alternative controls are equivalent, or not equivalent, to the controls required by the standard in accordance with § 63.6(g).

Sections 63.506(e)(3)(vii) and 63.1335(e)(3)(vii). The EPA is proposing to clarify promulgated § 63.1335(e)(3)(vii) (and to add a similar paragraph as § 63.506(e)(3)(vii)), by specifying exactly what needs to be included in the Precompliance Report if an owner or operator intends to establish parameter monitoring levels using engineering assessment and/or manufacturer's recommendations. The promulgated version of § 63.1335(e)(3)(vii) could have been misinterpreted to require the owner or operator to submit the actual parameter monitoring level, which would potentially require completion of performance tests.

Sections 63.506(e)(4) and 63.1335(e)(4). The EPA is proposing several simplifying word changes (e.g., ''must'' has been changed to ''shall'' throughout §§ 63.506(e)(4) and 63.1335(e)(4), for consistency with other sections in subparts U and JJJ) and cross-reference updates throughout §§ 63.506(e)(4) and 63.1335(e)(4). Additional proposed changes to subparagraphs under §§ 63.506(e)(4) and 63.1335(e)(4) are described below.

Sections 63.506(e)(4)(ii)(F)(4) and 63.1335(e)(4)(ii)(F)(4). The EPA is proposing to amend §§ 63.506(e)(4)(ii)(F)(*4*) and 63.1335(e)(4)(ii)(F)(*4*), by cross-referencing the requirements in §§ 63.506(e)(7)(ii) and 63.1335(e)(7)(ii), so that these paragraphs specify how the nominal efficiency is to be reported.

Sections 63.506(e)(4)(ii)(H)(1) and 63.1335(e)(4)(ii)(H)(1). The EPA is proposing to remove the reference to table 14b from the HON, because there is no longer a table 14b in the HON.

Sections 63.506(e)(5) and 63.1335(e)(5). The proposed revisions to this paragraph clarify how owners and operators are expected to handle the different ''Notification of Compliance Status'' reports that will be required for emission points with different compliance dates (such as equipment leaks subject to subpart H of the HON). In all cases, a Notification of Compliance Status is due within 150 days after any particular compliance date (or with the first Periodic Report that is due at least 150 days after the compliance date, for equipment leaks with compliance dates later than July 31, 1997).

Sections 63.506(e)(5)(i)(A) and 63.1335(e)(5)(i)(A). The EPA is proposing to amend §§ 63.506(e)(5)(i)(A) and 63.1335(e)(5)(i)(A), to clarify the phrase ''any other information.'' The proposed change makes clear that ''any other information'' only relates to information from the previous test report and that the information need only be submitted if the Administrator requests that information. This proposed change would relieve industry of the burden of trying to anticipate what ''any other information'' might mean to the EPA.

Sections 63.506(e)(5)(ii) and 63.1335(e)(5)(ii). The EPA is proposing changes to these paragraphs, in order to clarify the differences in recordkeeping and reporting requirements for owners and operators of storage vessels that have elected to conduct continuous parameter monitoring under §§ 63.505 and 63.1334, and to clarify the requirements for owners or operators that have not elected to conduct continuous parameter monitoring for their storage vessels. At promulgation, both subparts U and JJJ were unclear regarding the compliance reporting requirements for owners or operators that have not elected to conduct continuous parameter monitoring for their storage vessels (i.e., the promulgated rules provided no specific requirements for these owners and operators, aside from those that applied to owners and operators conducting continuous monitoring at their storage vessels.)

Sections 63.506(e)(5)(vii), (viii), and (ix) and 63.1335(e)(5)(vi), (vii), and (viii). The EPA is proposing to add cross-references (in §§ 63.506(e)(5)(vii) and (viii) and 63.1335(e)(5)(vi) and (vii)) to the predominant use determination procedures for storage vessels and recovery operations equipment. The proposed changes to §§ 63.506(e)(5)(ix) and 63.1335(e)(5)(viii) update the terminology (e.g., batch mass limitation) in those paragraphs to match changes proposed elsewhere in today's action.

Sections 63.506(e)(5)(x), (xi), and (xii) and 63.1335(e)(5)(ix), (x), and (xi). Proposed §§ 63.506(e)(5)(x) and 63.1335(e)(5)(ix) require owners and operators that are subject to proposed paragraphs §§ 63.481(k) or 63.1311(m) (provisions addressing overlap with other regulations for monitoring, recordkeeping, or reporting for combustion, recovery, or recapture devices) to indicate in the Notification of Compliance Status which applicable rule the owner or operator will follow for testing, monitoring, recordkeeping, and reporting requirements.

Proposed sections 63.506(e)(5)(xi) and 63.1335(e)(5)(x) specify the reporting requirements for owners and operators choosing to comply with § 63.132(g), by transferring a Group 1 wastewater stream to an off-site treatment facility, or to an on-site treatment facility that is not owned or operated by the owner or operator of the affected source.

Finally, the proposed §§ 63.506(e)(5)(xii) and 63.1335(e)(5)(xi) requires owners and operators choosing to implement the reduced recordkeeping program specified in §§ 63.506(h)(1) and 63.1335(h)(1) to notify the Administrator of their election to do so. At promulgation, no distinct reporting requirements were stated for owners and operators taking the actions described above.

Sections 63.506(e)(6) and 63.1335(e)(6). The proposed amendments to this paragraph are intended to assist owners and operators in differentiating the applicable periodic reporting requirements related to subparts U and JJJ and any other subpart which subpart U or JJJ references. Specific Periodic Reporting requirements have been added related to

equipment leaks and heat exchange systems. Further, provisions specifying that monitoring data shall be used to determine compliance for Group 1 emission points and Group 2 emission points included in emissions averages have been added to reflect the HON provisions in § 63.152(c)(2)(ii), after which these paragraphs §§ 63.506(e)(6) and 63.1335(e)(6) were modeled.

Sections 63.506(e)(6)(i) and 63.1335(e)(6)(i). These paragraphs have been changed to clarify that the EPA intended for the ''180-day period'' discussed to equate to a 6-month period. A similar change has been made in subsequent paragraphs where necessary.

Sections 63.506(e)(6)(ii) and 63.1335(e)(6)(ii). These paragraphs have been changed to clarify that the Periodic Report should state that there were no compliance exceptions, as opposed to making the general statement that the affected source was in compliance.

Sections 63.506(e)(6)(iii)(B) and (C), and 63.1335(e)(6)(iii)(B) and (C). The EPA is proposing to clarify, under §§ 63.506(e)(6)(iii)(B) and 63.1335(e)(6)(iii)(B), that for excursions caused by insufficient monitoring data, the owner or operator must include the start-time and duration of any periods when monitoring data were not collected. In addition, the EPA is proposing to ''reserve'' §§ 63.506(e)(6)(iii)(C) and 63.1335(e)(6)(iii)(C), because those paragraphs would be unnecessary and redundant, once the proposed clarification to §§ 63.506(e)(6)(iii)(B) and 63.1335(e)(6)(iii)(B) has been made.

Sections 63.506(e)(6)(iii)(D)(2) and 63.1335(e)(6)(iii)(D)(2). The first part of each of these paragraphs have been rewritten to clarify their intended meaning. The point of confusion was whether or not a report was required for every process change, even those that result in a group status change from Group 1 to Group 2. The clarification states that reports are not required for process changes that result in a group status change from Group 1 to Group 2; however, the owner or operator is required to comply with the Group 1 requirements until notification has been made that the group status has changed from Group 1 to Group 2.

In addition, as was mentioned briefly earlier in this preamble, because the Notification of Compliance Status is the report in which compliance (or non-compliance) is ultimately documented, the EPA has decided that it is not necessary for owners or operators of affected sources to submit a compliance schedule. For this reason, the EPA is proposing to remove the term ''compliance schedule'' throughout both rules (including the titles for §§ 63.481 and 63.1311), and to remove all requirements to report information in a ''compliance schedule'' throughout both rules. In particular, the owner or operator is no longer required to submit a schedule for compliance with the applicable provisions after every process change. The provisions for providing a compliance schedule have also been removed from paragraphs §§ 63.506(e)(6)(iii)(D)(*2*) and 63.1335(e)(6)(iii)(D)(*2*). However, this proposed provision does not override other regulations that might require compliance schedules (e.g., Title V requirements, the Standards of Performance for VOC Emissions from the Polymers Manufacturing Industry, or reasonably available control technology (RACT) standards).

Sections 63.506(e)(6)(iii)(D)(5) and 63.1335(e)(6)(iii)(D)(4). The EPA is proposing to add these paragraphs requiring reports of changes in the identity of treatment facilities receiving wastewater streams under § 63.132(g) of the HON.

Sections 63.506(e)(6)(iv) and 63.1335(e)(6)(iv). These paragraphs were rewritten to clarify the intended meaning. These paragraphs also reflect the change in terminology from ''batch cycle limitation'' to ''batch mass input limitation.''

Sections 63.506(e)(6)(vi) and 63.1335(e)(6)(vi). The EPA is proposing to amend these paragraphs for greater clarity and so that they are consistent with the proposed changes to §§ 63.480(f) and 63.1310(f).

Sections 63.506(e)(6)(vii) and (viii) and 63.1335(e)(6)(vii) and (viii). The EPA is proposing to amend §§ 63.506(e)(6)(vii) and (viii) and 63.1335(e)(6)(vii) and (viii) to replace the term ''belonging to'' with the term ''assigned to'' in order to reflect the changes proposed in §§ 63.480(g) and (h) and 63.1310(g) and (h).

Promulgated §§ 63.506(e)(6)(ix) and 63.1335(e)(6)(ix). The EPA is proposing to remove promulgated §§ 63.506(e)(6)(ix) and 63.1335(e)(6)(ix) to prevent any implication that two separate Periodic Reports are due, when in fact the requirement is for a single report containing information related to both equipment leak components and other emission points.

Proposed §§ 63.506(e)(6)(ix) and (x) and 63.1335(e)(6)(ix) and (x). The EPA is proposing to add §§ 63.506(e)(6)(ix) and (x) and 63.1335(e)(6)(ix) and (x) to include notification requirements already required by the promulgated rules (in §§ 63.506(h)(1) and (2) and 63.1335(h)(1) and (2)), but not previously listed under §§ 63.506(e)(6) and 63.1335(e)(6).

Proposed §§ 63.506(e)(6)(xii) and 63.1335(e)(6)(xii). The EPA is proposing to reorganize and rewrite promulgated §§ 63.506(e)(6)(xi) and 63.1335(e)(6)(xi) as §§ 63.506(e)(6)(xii) and 63.1335(e)(6)(xii). In particular, the EPA is proposing to revise §§ 63.506(e)(6)(xii)(A)(*1*) and 63.1335(e)(6)(xii)(A)(*1*), to state that quarterly reports are required if ''a control or recovery device for a particular emission point or process section'' has more excursions than the number of excused excursions, instead of stating that quarterly reports are required if ''an emission point has any excursions,'' as was done at promulgation.

In addition, the EPA is proposing to move the provision that was proposed under §§ 63.506(e)(6)(xii)(D) and 63.1335(e)(6)(xii)(D), allowing the Administrator to request quarterly reports for emission points or process sections of concern, to §§ 63.506(e)(6)(xii)(A)(*2*) and 63.1335(e)(6)(xii)(A)(*2*). The EPA is also proposing changes to §§ 63.506(e)(6)(xii)(D) and 63.1335(e)(6)(xii)(D), which clarify that, after submitting quarterly reports for one year ''without more excursions occurring (during that year) than the number of excused excursions allowed * * *'' the owner or operator may return to semiannual reporting. The proposed rule simply read ''for 1 year,'' without clarifying that if additional unexcused excursions occurred during that year, the owner or operator would again be required to submit quarterly reports for the year following those most recent, unexcused excursions.

Proposed §§ 63.506(e)(6)(xii)(E) and 63.1335(e)(6)(xii)(E). The EPA is proposing to remove promulgated §§ 63.506(e)(6)(xi)(E) and 63.1335(e)(6)(xi)(E) and to move the statement concerning the use of monitoring data to determine compliance to the introductory paragraphs §§ 63.506(e)(6) and 63.1335(e)(6), because the EPA believes that it is more appropriate to make this statement at the beginning of §§ 63.506(e)(6) and 63.1335(e)(6), than to leave it back in §§ 63.506(e)(6)(xi)(E) and 63.1335(e)(6)(xi)(E). In addition, addressing the issue of monitoring requirements in §§ 63.506(e)(6) and 63.1335(e)(6) allows the EPA to point out that owners and operators of storage vessels to which the provisions of §§ 63.505 or 63.1334 do not apply must instead comply with the requirements laid out in their own individual monitoring plans for those emission

points. The proposed rules were silent on this last point.

Sections 63.506(e)(7)(ii) and 63.1335(e)(7)(ii). The EPA is proposing to add text to §§ 63.506(e)(7)(ii) and 63.1335(e)(7)(ii), clarifying the difference between requests associated with the initial Emissions Averaging Plan and requests made after submittal of the initial Emissions Averaging Plan.

Sections 63.506(e)(7)(iv) and 63.1335(e)(7)(iii). The EPA is proposing to add these paragraphs to include a notification discussed in paragraphs §§ 63.480(f) and 63.1310(f), for owners and operators experiencing a change in primary product at an affected process unit.

Sections 63.506(e)(7)(v) and 63.1335(e)(7)(iv). The EPA is proposing to add these paragraphs to specify the report required when an EPPU/TPPU or emission point(s) is added to an existing affected source under §§ 63.480(i) and 63.1310(i). The promulgated rules did not include specific reporting requirements for such situations. At promulgation, the only reporting requirement associated with the addition of an EPPU/TPPU or an emission point was the requirement that was contained in §§ 63.480(i)(2)(iii) and 63.1310(i)(2)(iii) (both of which the EPA has proposed removing in today's action), pertaining to establishing a new compliance date for the added emission point. As explained earlier during the discussion of that proposed deletion, §§ 63.480(i)(2)(ii) and 63.1310(i)(2)(ii) now specify the compliance dates pertaining to all newly added emission points.

Sections 63.506(g)(3) and 63.1335(g)(3). The EPA is proposing to remove the parenthetical phrase ''for example, once every 15 minutes'' as it relates to records of measurement, since the term ''set frequency'' is sufficiently clear. In addition, the EPA is proposing to edit §§ 63.506(g)(3)(i)(A) and 63.1335(g)(3)(i)(A), to clarify that an operating parameter value reading (but not a record) must be taken at least once during every 15 minute period.

Sections 63.506(h) and 63.1335(h). These paragraphs have been reorganized and rewritten to clarify the intended meaning, by simplifying language, adding cross-references, and giving more specific guidance regarding the retention period for monitoring system descriptions. Changes have also been made to §§ 63.506(h)(1) and 63.1335(h)(1) pointing out that the notification required by these paragraphs must be made in the Notification of Compliance Status or in the next Periodic Report. Further, the EPA is proposing to add paragraphs §§ 63.506(h)(1)(vi)(D) and 63.1335(h)(1)(vi)(D) to describe the recordkeeping requirement for the description of the monitoring system. Under proposed §§ 63.506(h)(1)(vi)(D) and 63.1335(h)(1)(vi)(D), owners and operators are required to retain current descriptions of monitoring systems on-site, or those descriptions may be accessible from a central location by computer or other means that provides access to the description within 2 hours after a request. The proposed requirements also state that all superseded descriptions must be retained for at least 5 years after the date of their creation, although they may be stored off-site once they have been superseded by a more current description for 6 months or more.

2. Changes Unique to Polymers and Resins I

Section 63.506(d)(2). The EPA is proposing to re-structure § 63.506(d)(2) by combining the three subparagraphs into one paragraph (to reduce redundancy). In addition, the EPA is proposing to reduce the recordkeeping burden imposed by the promulgated paragraph § 63.506(d)(2)(iii), by removing the requirement to keep records of all batch cycle averages and batch emission episode averages. As long as a record of each measured data value is maintained, batch cycle averages and batch emission episode averages can always be re-calculated.

Section 63.506(e)(4)(ii)(N). The EPA is proposing to add this provision which should have been included in subpart U at promulgation, and is included in the parallel emissions averaging provisions in the HON and subpart JJJ. The proposed paragraph specifies that emissions from emission points to be included in an emissions average must not result in greater hazard or, at the option of the Administrator, greater risk to human health or the environment than those emissions from those emissions points would have created if they were not included in the emissions average. The purpose of emissions averaging is to give greater flexibility to affected sources in meeting MACT requirements. It was never intended to reduce the level of environmental protection that the standards would otherwise provide.

Section 63.506(e)(4)(iv)(C). The EPA is proposing to add another paragraph that was inadvertently left out of subpart U at promulgation. This proposed paragraph establishes the deadline for submitting an update to an Emissions Averaging Plan.

Section 63.506(e)(5)(iv). The EPA is proposing to ''reserve'' this paragraph, because the requirements in § 63.506(e)(5)(iv) were duplicative of those in § 63.506(e)(5)(ix), in that only owners of Group 2 batch front-end process vents (as opposed to Group 1 batch front-end process vents) are required to determine a limitation for batch front-end process vents.

Section 63.506(e)(6)(iii)(D)(4). The EPA is proposing this change to clarify that notification is only required if a change in the standard operating procedure required by § 63.500 has the potential for increasing the concentration of carbon disulfide in the crumb dryer exhaust.

Section 63.506(e)(7)(iii). This paragraph was rewritten to clarify the intended meaning (i.e., that compliance redetermination reports for back-end processes that have experienced a process change (as described in § 63.499(d)) are due within 180 days after the process change has occurred.)

3. Changes Unique to Polymers and Resins IV

Proposed § 63.1335(b)(1)(i)(C). The EPA is proposing to change this paragraph to be consistent with the HON, after which these provisions are modeled. At promulgation, this paragraph attempted to exempt some Group 2 emission points included in an emissions average from the requirement to keep records related to start-up, shutdown, or malfunction occurrences. However, the HON provisions do not make such a distinction, and the EPA has determined that these records are necessary for all emission points included in an emissions average. Therefore, the EPA is proposing to change this paragraph to reflect the language that appears in the HON provisions ('63.103(c)(3)), as well as in subpart U (proposed (63.506(b)(1)(i)(C)).

Section 63.1335(b)(2). The proposed change to this paragraph corrects an omission made in the promulgated rule. The change specifies that the provisions of § 63.5(d)(1)(iii) do not apply for purposes of this subpart. Section 63.5(d)(1)(iii) discusses Notification of Compliance Status requirements, and the proposed change clarifies that the provisions in this subpart are to be followed with regard to the Notification of Compliance Status.

Promulgated § 63.1335(e)(8)(ii). The EPA is proposing to remove this paragraph to correct an error in the promulgated rule, which was that the promulgated rule required the Notification of Compliance Status to be included in the operating permit application. Because the operating permit application may be submitted well before the Notification of

Compliance Status is due, and because not all of the information required to be submitted in the Notification of Compliance Status is appropriate for submittal in the operating permit application, the EPA is proposing to remove promulgated § 63.1335(e)(8)(ii).

Section 63.1335(g). The EPA is proposing to remove the phrase ''63.1314 for storage vessels'' from this paragraph because storage vessels are not always subject to continuous monitoring, as this phrase might suggest.

R. The Tables

1. Changes Common to Polymers and Resins I and IV

Table 1 of subpart U and Table 1 of subpart JJJ. The EPA is proposing several changes to these tables (which discuss the applicability of the General Provisions to subpart U and subpart JJJ affected sources) in order to clarify the applicability of the General Provisions to these subparts, giving more detail than the promulgated rule did, in many instances. The EPA is also proposing to amend these tables to recognize when the General Provisions are consistent with subparts U and JJJ. For instance, under ''63.1(a)(10),'' these tables formerly stated ''No,'' for applicability to subparts U and JJJ; however, the tables now say ''Yes,'' since the provisions in § 63.1(a)(10) are consistent with the approach taken in subparts U and JJJ. The EPA believed that it might be confusing to owners and operators to read ''No'' under this table, and yet notice that the requirements in § 63.1(a)(10) are consistent with proposed §§ 63.481(m) and 63.1311(o).

In addition, many of the changes proposed for table 1 of subpart U and table 1 of subpart JJJ are corrections. In particular, the EPA neglected to consider the equipment leak provisions in creating the promulgated version of table 1, and the proposed amendments add several exemptions and clarifications of applicability that are related to the equipment leak provisions in subparts U and JJJ. In general, the proposed changes to table 1 incorporate proposed changes to subparts U and JJJ, which have already been discussed in this preamble.

Table 6 in subpart U and Table 7 in subpart JJJ. The EPA is proposing the following changes to these tables: (1) Changing the titles to each table to include ''aggregate batch vent streams''; (2) replacing the terms ''temperature'' and ''pH'' with the term ''value,'' where temperature or pH is not the only parameter being monitored; (3) clarifying that *all* pilot flames at a particular flare must be absent in order to trigger the recordkeeping and reporting requirements in these tables; (4) including ''gas rate'' as a parameter to be monitored for scrubbers for halogenated batch process vents or aggregate batch vent streams; (5) requiring the recording and reporting of the ''liquid/gas ratio'' instead of the ''liquid flow rate'' at scrubbers for halogenated batch process vents or aggregate batch vent streams; and (5) requiring that records be kept of all ''diversions'' rather than ''flow'' and that records and reports be required for all monthly inspections that indicate that a valve was ''in the diverting position'' (rather than ''closed'') or that a seal was ''broken'' (rather than ''changed'').

Table 7 in subpart U and Table 8 of subpart JJJ. The EPA is proposing several clarifying changes and corrections to these two tables. In the proposed amendments to these tables, the proposed parameter monitoring requirements are more specific than the promulgated requirements with regard to flow rates. In particular, the EPA is proposing to replace the term ''total regeneration stream mass flow'' with the term ''total regeneration steam flow or nitrogen flow, or pressure (gauge or absolute).'' In addition, the EPA is proposing a correction under the entry for ''established operating parameters'' for absorbers, by changing ''minimum temperature and minimum specific gravity'' to ''maximum temperature and maximum specific gravity.'' Upon review of this provision, the EPA determined that the promulgated rule incorrectly called for the parameters to be ''minimums'' instead of ''maximums,'' in this instance. The EPA believes this change is necessary because the temperature and specific gravity of the absorbing liquid should be subject to a limit that ensures that the gas will be absorbed by the absorbing liquid.

Table 9 to subpart U and Table 9 to subpart JJJ. The EPA is proposing to add Table 9 to both subparts U and JJJ, to describe the routine reports required under these subparts, along with their general ''due dates.'' These tables are intended to be of assistance to owners or operators, but are not necessarily ''all-inclusive'' of every report that might be required under special circumstances under subpart U or JJJ.

2. Changes Unique to Polymers and Resins I

Table 2 of subpart U. The EPA is proposing one correction to this table. At promulgation, the table stated that §§ 63.102 through 63.109 of subpart F of the HON did not apply to subpart U. However, the promulgated rule (under § 63.502(f)) required that owners and operators comply with the requirements in § 63.104 of the HON for heat exchange systems. Because the latter more accurately represents the EPA's intent (that owners and operators of subpart U affected sources comply with the heat exchange system provisions in § 63.104), the EPA is proposing to edit table 2 to state ''yes'' for § 63.104. A few other cross-reference corrections and updates are also being proposed in this table.

Table 8 to subpart U. For the reasons described above under Section II.D of this notice, the EPA is proposing to change the term ''batch stripper'' to ''a stripper operated in batch mode,'' and to change the term ''continuous stripper'' to ''a stripper operated in continuous mode,'' in table 8 of subpart U.

3. Changes Unique to Polymers and Resins IV

Table 3 of subpart JJJ. Due to potential confusion over the promulgated version of this table, the EPA is proposing to amend it to make it clear that for Group 1 storage vessels at existing polystyrene continuous processes, the vessel capacity and vapor pressure specifications pertain to all chemicals used in those processes. In addition, the EPA is proposing to correct the specification for vessel capacity for these same storage vessels, so that the requirement reads ''<75.7'' cubic meters instead of also listing a lower limit of ''≥38'' cubic meters. The EPA believes that, since the definition of ''storage vessel'' contained in § 63.1312 excludes vessels with capacities smaller than 38 cubic meters, it is unnecessary to note that lower cutoff in this table for storage vessels assigned to existing polystyrene continuous processes.

Table 5 of subpart JJJ. Several technical corrections to Table 5 in subpart JJJ are being proposed. Table 5 describes specifications for Group 1 storage vessels at new affected sources producing particular thermoplastics (e.g., styrene acrylonitrile resin (SAN)). At promulgation, there was a typographical error in the second set of applicability criteria, which applied to SAN Group 1 storage vessels. This set of applicability criteria incorrectly described a storage vessel as having vapor pressure greater than or equal to 0.7 kilopascals and greater than or equal to 10 kilopascals; this should have read ''vapor pressure greater than or equal to 0.7 kilopascals and less than 10 kilopascals.'' However, other technical corrections have removed this set of

applicability criteria from Table 5. Table 5 now indicates three sets of applicability criteria and includes a footnote designating the control level for each set of applicability criteria. At promulgation, two of the sets of criteria for Group 1 storage vessels at SAN new affected sources (i.e., the second and fourth sets) overlapped. As shown below, they covered the same capacity range, and the vapor pressure ranges overlapped:

Capacity ≥ 151 and 0.7 ≤ vapor pressure < 10

Capacity ≥ 151 and vapor pressure ≥ 10

These two sets of applicability criteria have been simplified to the one set of applicability criteria shown below:

Capacity ≥ 151 and vapor pressure ≥ 0.7

The EPA is also proposing to remove the notation ''vp'' from the column including vapor pressure specifications, because that notation was used inconsistently in that column, and because it was unnecessary.

Table 6 of subpart JJJ. At promulgation, two capital letter ''A'''s were inadvertently printed in front of each of the acronyms, where they were defined at the bottom of table 6. The EPA proposes to correct this error in these amendments.

III. Administrative Requirements

A. Docket

The docket is an organized and complete file of all the information considered by the EPA in the development of this proposed rulemaking. The docket is a dynamic file, because material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket, with the exception of interagency review materials, will serve as the record in the case of judicial review. (See section 307(d)(7)(A) of the Act.)

B. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must submit to the Office of Management and Budget (OMB) for review significant regulatory actions. The Executive Order defines ''significant regulatory action'' as one that OMB determines is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that neither the proposed amendments to the Polymers and Resins I rule, nor the proposed amendments to the Polymers and Resins IV rule qualify as a ''significant regulatory action'' under the terms of Executive Order 12866 and, therefore, are not subject to review by the Office of Management and Budget.

C. Executive Order 12875: Enhancing Intergovernmental Partnerships

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or the EPA consults with those governments. If the EPA complies by consulting those governments, the Executive Order requires the EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's proposed amendments to subpart U do not create a mandate on State, local, or tribal governments, nor do the proposed amendments to subpart JJJ. These proposed amendments do not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to the proposed amendments to either of these rules.

D. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, the EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or the EPA consults with those governments. If the EPA complies by consulting with those governments, the Executive Order requires the EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires the EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Neither today's proposed amendments to subpart U nor those to subpart JJJ impose any duties or compliance costs on Indian tribal governments. Further, the proposed amendments provided herein do not significantly alter the control standards imposed by subpart U or subpart JJJ for any source, including any that may affect communities of the Indian tribal governments. Hence, today's proposed amendments do not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to these proposed amendments.

E. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), requires that the Agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of more than $100 million in any one year. Section 203 requires the Agency to establish a plan for obtaining input from and informing, educating, and advising any small

governments that may be significantly or uniquely affected by the rule.

The EPA has determined that neither the proposed amendments to subpart U nor the proposed amendments to subpart JJJ include a Federal mandate that may result in estimated costs of, in the aggregate, $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector, and that these proposed amendments do not significantly or uniquely impact small governments, because they contain no requirements that apply to such governments or impose obligations upon them. The EPA has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. In addition, because small governments will not be significantly or uniquely affected by these rules, the Agency is not required to develop a plan with regard to small governments. Therefore, the requirements of the Unfunded Mandates Act do not apply to these proposed amendments.

F. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small business, small not-for-profit enterprises, and small governmental jurisdictions. These proposed amendments would not have a significant impact on a substantial number of small entities, because they impose no additional regulatory requirements on owners or operators of affected sources. Therefore, the EPA certifies that these actions will not have a significant economic impact on a substantial number of small entities.

G. Paperwork Reduction Act

For both the Group I and Group IV Polymers and Resins NESHAP, the information collection requirements (ICR) were submitted to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act.* At promulgation, OMB had already approved the information collection requirements for the Group IV Polymers and Resins NESHAP and assigned those standards the OMB control number 2060–0351. Subsequently, the OMB approved the information collection requirements for the Group I Polymers and Resins NESHAP, and on July 15, 1997 (62 FR 37720) the OMB control number 2060–0356 was assigned to the Group I Polymers and Resins NESHAP. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The EPA has amended 40 CFR Part 9, Section 9.1, to indicate the ICRs contained in the Group I and IV Polymers and Resins NESHAP. The amendments to the NESHAP contained in this proposal should have no impact on the information collection burden estimates made previously. Therefore, the ICRs have not been revised.

H. Applicability of Executive Order 13045

Executive Order 13045: ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that the EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. These proposed amendments are not subject to Executive Order 13045 because they do not establish an environmental standard intended to mitigate health or safety risks.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) directs all Federal agencies to use voluntary consensus standards instead of government-unique standards in their regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., material specifications, test methods, sampling and analytical procedures, business practices, etc.) that are developed or adopted by one or more voluntary consensus standards bodies. Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), the National Fire Protection Association (NFPA), and the Society of Automotive Engineers (SAE). The NTTAA requires Federal agencies like EPA to provide Congress, through OMB, with explanations when an agency decides not to use available and applicable voluntary consensus standards.

The proposed amendments to subpart U and subpart JJJ do not involve the proposal of any new technical standards. The EPA welcomes comments on this aspect of these proposed amendments and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

As part of a larger effort, the EPA is undertaking a project to cross-reference existing voluntary consensus standards on testing, sampling, and analysis, with current and future EPA test methods. When completed, this project will assist the EPA in identifying potentially-applicable voluntary consensus standards which can then be evaluated for equivalency and applicability in determining compliance with future regulations.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: February 10, 1999.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, part 63 of title 40, chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Subpart U—National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins

2. Section 63.480 is amended:

a. By revising paragraphs (a), (b), (c), (d), (e), (f), (g) introductory text, (g)(1) through (g)(4), (g)(6), (g)(7), (g)(8), (h) introductory text, (h)(1) through (h)(4), (h)(6), (h)(7), (i)(1), (i)(2)(i) introductory

text, (i)(2)(i)(A), and (i)(2)(ii), (i)(3), (i)(4), (i)(5), and (j);

b. Removing paragraph (i)(2)(iii); and

c. Adding paragraph (i)(6), to read as follows:

§ 63.480 Applicability and designation of affected sources.

(a) *Definition of affected source.* The provisions of this subpart apply to each affected source. Affected sources are described in paragraphs (a)(1) through (a)(4) of this section.

(1) An affected source is either an existing affected source or a new affected source. Existing affected source is defined in paragraph (a)(2) of this section, and new affected source is defined in paragraph (a)(3) of this section.

(2) An existing affected source is defined as each group of one or more elastomer product process units (EPPU) and associated equipment, as listed in paragraph (a)(4) of this section, that is not part of a new affected source, as defined in paragraph (a)(3) of this section, that is manufacturing the same primary product and that is located at a plant site that is a major source.

(3) A new affected source is defined as something that meets the criteria of paragraph (a)(3)(i), (a)(3)(ii), or (a)(3)(iii) of this section. The situation described in paragraph (a)(3)(i) of this section is distinct from those situations described in paragraphs (a)(3)(ii) and (a)(3)(iii) of this section and from any situation described in paragraph (i) of this section.

(i) At a site without HAP emission points before June 12, 1995 (i.e., a ''greenfield'' site), each group of one or more EPPU and associated equipment, as listed in paragraph (a)(4) of this section, that is manufacturing the same primary product and that is part of a major source on which construction commenced after June 12, 1995;

(ii) A group of one or more EPPU meeting the criteria in paragraph (i)(1)(i) of this section; or

(iii) A reconstructed affected source meeting the criteria in paragraph (i)(2)(i) of this section.

(4) *Emission points and equipment.* The affected source also includes the emission points and equipment specified in paragraphs (a)(4)(i) through (a)(4)(iv) of this section that are associated with each applicable group of one or more EPPU constituting an affected source.

(i) Each waste management unit.

(ii) Maintenance wastewater.

(iii) Each heat exchange system.

(iv) Equipment required by, or utilized as a method of compliance with, this subpart which may include control devices and recovery devices.

(5) EPPUs and associated equipment, as listed in paragraph (a)(4) of this section, that are located at plant sites that are not major sources are neither affected sources nor part of an affected source.

(b) *EPPUs without organic HAP.* The owner or operator of an EPPU that is part of an affected source, as defined in paragraph (a) of this section, but that does not use or manufacture any organic HAP shall comply with the requirements of either paragraph (b)(1) or (b)(2) of this section. Such an EPPU is not subject to any other provision of this subpart and is not required to comply with the provisions of subpart A of this part.

(1) Retain information, data, and analyses used to document the basis for the determination that the EPPU does not use or manufacture any organic HAP. Types of information that could document this determination include, but are not limited to, records of chemicals purchased for the process, analyses of process stream composition, engineering calculations, or process knowledge.

(2) When requested by the Administrator, demonstrate that the EPPU does not use or manufacture any organic HAP.

(c) *Emission points not subject to the provisions of this subpart.* The affected source includes the emission points listed in paragraphs (c)(1) through (c)(9) of this section, but these emission points are not subject to the requirements of this subpart or to the provisions of subpart A of this part.

(1) Equipment that does not contain organic HAP and is located at an EPPU that is part of an affected source;

(2) Stormwater from segregated sewers;

(3) Water from fire-fighting and deluge systems in segregated sewers;

(4) Spills;

(5) Water from safety showers;

(6) Water from testing of deluge systems;

(7) Water from testing of firefighting systems;

(8) Vessels and equipment storing and/or handling material that contains no organic HAP or organic HAP as impurities only; and

(9) Equipment that is intended to operate in organic HAP service for less than 300 hours during the calendar year.

(d) *Processes exempted from the affected source.* Research and development facilities are exempted from the affected source.

(e) *Applicability determination of elastomer equipment included in a process unit producing a non-elastomer product.* If an elastomer product that is subject to this subpart is produced within a process unit that is subject to subpart JJJ of this part, and at least 50 percent of the elastomer is used in the production of the product manufactured by the subpart JJJ process unit, the unit operations involved in the production of the elastomer are considered part of the process unit that is subject to subpart JJJ, and not this subpart.

(f) *Primary product determination and applicability.* An owner or operator of a process unit that produces or plans to produce an elastomer product shall determine if the process unit is subject to this subpart in accordance with this paragraph. The owner or operator shall initially determine whether a process unit is designated as an EPPU and subject to the provisions of this subpart in accordance with either paragraph (f)(1) or (f)(2) of this section. The owner or operator of a flexible operation unit that was not initially designated as an EPPU, but in which an elastomer product is produced, shall conduct an annual re-determination of the applicability of this subpart in accordance with paragraph (f)(3) of this section. Owners or operators that anticipate the production of an elastomer product in a process unit that was not initially designated as an EPPU, and in which no elastomer products are currently produced, shall determine if the process unit is subject to this subpart in accordance with paragraph (f)(4) of this section. Paragraphs (f)(3) and (f)(5) through (f)(7) of this section discuss compliance only for flexible operation units. Other paragraphs apply to all process units, including flexible operation units, unless otherwise noted. Paragraph (f)(8) of this section contains reporting requirements associated with the applicability determinations. Paragraphs (f)(9) and (f)(10) describe criteria for removing the EPPU designation from a process unit.

(1) *Initial Determination.* The owner or operator shall initially determine if a process unit is subject to the provisions of this subpart based on the primary product of the process unit in accordance with paragraphs (f)(1)(i) through (iii) of this section. If the process unit never uses or manufactures any organic HAP, regardless of the outcome of the primary product determination, the only requirements of this subpart that might apply to the process unit are contained in paragraph (b) of this section. If a flexible operation unit does not use or manufacture any organic HAP during the manufacture of one or more products, paragraph (f)(5)(i) of this section applies to that flexible operation unit.

(i) If a process unit only manufactures one product, then that product shall represent the primary product of the process unit.

(ii) If a process unit produces more than one intended product at the same time, the primary product shall be determined in accordance with paragraph (f)(1)(ii)(A) or (B) of this section.

(A) The product for which the process unit has the greatest annual design capacity on a mass basis shall represent the primary product of the process unit, or

(B) If a process unit has the same maximum annual design capacity on a mass basis for two or more products, and if one of those products is an elastomer product, then the elastomer product shall represent the primary product of the process unit.

(iii) If a process unit is designed and operated as a flexible operation unit, the primary product shall be determined as specified in paragraphs (f)(1)(iii)(A) or (B) of this section based on the anticipated operations for the 5 years following September 5, 1996 at existing process units, or for the first year after the process unit begins production of any product for new process units. If operations cannot be anticipated sufficiently to allow the determination of the primary product for the specified period, applicability shall be determined in accordance with paragraph (f)(2) of this section.

(A) If the flexible operation unit will manufacture one product for the greatest operating time over the specified five year period for existing process units, or the specified one year period for new process units, then that product shall represent the primary product of the flexible operation unit.

(B) If the flexible operation unit will manufacture multiple products equally based on operating time, then the product with the greatest expected production on a mass basis over the specified five year period for existing process units, or the specified one year period for new process units shall represent the primary product of the flexible operation unit.

(iv) If, according to paragraph (f)(1)(i), (ii), or (iii) of this section, the primary product of a process unit is an elastomer product, then that process unit shall be designated as an EPPU. That EPPU and associated equipment, as listed in paragraph (a)(4) of this section, is either an affected source, or part of an affected source comprised of other EPPU and associated equipment, as listed in paragraph (a)(4) of this section, subject to this subpart with the same primary product at the same plant site that is a major source. If the primary product of a process unit is determined to be a product that is not an elastomer product, then that process unit is not an EPPU.

(2) If the primary product cannot be determined for a flexible operation unit in accordance with paragraph (f)(1)(iii) of this section, applicability shall be determined in accordance with this paragraph.

(i) If the owner or operator cannot determine the primary product in accordance with paragraph (f)(1)(iii) of this section, but can determine that an elastomer product is not the primary product, then that flexible operation unit is not an EPPU.

(ii) If the owner or operator cannot determine the primary product in accordance with paragraph (f)(1)(iii) of this section, and cannot determine that an elastomer product is not the primary product as specified in paragraph (f)(2)(i) of this section, applicability shall be determined in accordance with paragraph (f)(2)(ii)(A) or (f)(2)(ii)(B) of this section.

(A) If the flexible operation unit is an existing process unit, the flexible operation unit shall be designated as an EPPU if an elastomer product was produced for 5 percent or greater of the total operating time of the flexible operation unit since March 9, 1999. That EPPU and associated equipment, as listed in paragraph (a)(4) of this section, is either an affected source, or part of an affected source comprised of other EPPU and associated equipment, as listed in paragraph (a)(4) of this section, subject to this subpart with the same primary product at the same plant site that is a major source. For a flexible operation unit that is designated as an EPPU in accordance with this paragraph, the elastomer product produced for the greatest amount of time since March 9, 1999 shall be designated as the primary product of the EPPU.

(B) If the flexible operation unit is a new process unit, the flexible operation unit shall be designated as an EPPU if the owner or operator anticipates that an elastomer product will be manufactured in the flexible operation unit at any time in the first year after the date the unit begins production of any product. That EPPU and associated equipment, as listed in paragraph (a)(4) of this section, is either an affected source, or part of an affected source comprised of other EPPU and associated equipment, as listed in paragraph (a)(4) of this section, subject to this subpart with the same primary product at the same plant site that is a major source. For a process unit that is designated as an EPPU in accordance with this paragraph, the elastomer product that will be produced shall be designated as the primary product of the EPPU. If more than one elastomer product will be produced, the owner or operator may select which elastomer product is designated as the primary product.

(3) *Annual Applicability Determination for non-EPPUs that have produced an elastomer product.* Once per year beginning September 5, 2001, the owner or operator of each flexible operation unit that is not designated as an EPPU, but that has produced an elastomer product at any time in the preceding five-year period or since the date that the unit began production of any product, whichever is shorter, shall perform the evaluation described in paragraphs (f)(3)(i) through (f)(3)(iii) of this section.

(i) For each product produced in the flexible operation unit, the owner or operator shall calculate the percentage of total operating time over which the product was produced during the preceding five-year period.

(ii) The owner or operator shall identify the primary product as the product with the highest percentage of total operating time for the preceding five-year period.

(iii) If the primary product identified in paragraph (f)(3)(ii) is an elastomer product, the flexible operation unit shall be designated as an EPPU. The owner or operator shall notify the Administrator no later than 45 days after determining that the flexible operation unit is an EPPU, and shall comply with the requirements of this subpart in accordance with paragraph (i)(1) of this section for the flexible operation unit.

(4) *Applicability determination for non-EPPUs that have not produced an elastomer product.* The owner or operator that anticipates the production of an elastomer product in a process unit that is not designated as an EPPU, and in which no elastomer products have been produced in the previous 5 year period or since the date that the process unit began production of any product, whichever is shorter, shall determine if the process unit is subject to this subpart in accordance with paragraphs (f)(4)(i) and (ii) of this section. Also, owners or operators who have notified the Administrator that a process unit is not an EPPU in accordance with paragraph (f)(9) of this section, that now anticipate the production of an elastomer product in the process unit, shall determine if the process unit is subject to this subpart in accordance with paragraphs (f)(4)(i) and (ii) of this section.

(i) The owner or operator shall use the procedures in paragraph (f)(1) or (f)(2) of this section to determine if the process unit is designated as an EPPU, with the following exception: for existing process units that are determining the primary product in accordance with paragraph (f)(1)(iii) of this section, or that are determining applicability in accordance with paragraph (f)(2) of this section, production shall be projected for the five years following the date that the owner or operator anticipates initiating the production of an elastomer product, instead of the five years following September 5, 1996.

(ii) If the unit is designated as an EPPU in accordance with paragraph (f)(4)(i) of this section, the owner or operator shall comply in accordance with paragraph (i)(1) of this section.

(5) *Compliance for flexible operation units.* Owners or operators of EPPUs that are flexible operation units shall comply with the standards specified for the primary product, with the exceptions provided in paragraphs (f)(5)(i) and (f)(5)(ii) of this section.

(i) Whenever a flexible operation unit manufactures a product in which no organic HAP is used or manufactured, the owner or operator is only required to comply with either paragraph (b)(1) or (b)(2) of this section to demonstrate compliance for activities associated with the manufacture of that product. This subpart does not require compliance with the provisions of subpart A of this part for activities associated with the manufacture of a product that meets the criteria of paragraph (b) of this section.

(ii) Whenever a flexible operation unit manufactures a product that makes it subject to subpart GGG of this part, the owner or operator is not required to comply with the provisions of this subpart during the production of that product.

(6) Owners or operators of EPPUs that are flexible operation units have the option of determining the group status of each emission point associated with the flexible operation unit, in accordance with either paragraph (f)(6)(i) or (f)(6)(ii) of this section, with the exception of batch front-end process vents. For batch front-end process vents, the owner or operator shall determine the group status in accordance with § 63.488.

(i) The owner or operator may determine the group status of each emission point based on emission point characteristics when the primary product is being manufactured.

(ii) The owner or operator may determine the group status of each emission point separately for each product produced by the flexible operation unit. For each product, the group status shall be determined using the emission point characteristics when that product is being manufactured and using the Group 1 criteria specified for the primary product.

Note: Under this scenario, it is possible that the group status, and therefore the requirement to achieve emission reductions, for an emission point may change depending on the product being manufactured.

(7) Owners or operators determining the group status of emission points in flexible operation units based solely on the primary product in accordance with paragraph (f)(6)(i) of this section shall establish parameter monitoring levels, as required, in accordance with either paragraph (f)(7)(i) or (f)(7)(ii) of this section. Owners or operators determining the group status of emission points in flexible operation units based on each product in accordance with paragraph (f)(6)(ii) of this section shall establish parameter monitoring levels, as required, in accordance with paragraph (f)(7)(i) of this section.

(i) Establish separate parameter monitoring levels in accordance with § 63.505(a) for each individual product.

(ii) Establish a single parameter monitoring level (for each parameter required to be monitored at each device subject to monitoring requirements) in accordance with § 63.505(a) that would apply for all products.

(8) *Reporting requirements.* When it is determined that a process unit is an EPPU and subject to the requirements of this subpart, the Notification of Compliance Status required by § 63.506(e)(5) shall include the information specified in paragraphs (f)(8)(i) and (f)(8)(ii) of this section, as applicable. If it is determined that the process unit is not subject to this subpart, the owner or operator shall either retain all information, data, and analysis used to document the basis for the determination that the primary product is not an elastomer product, or, when requested by the Administrator, demonstrate that the process unit is not subject to this subpart.

(i) If the EPPU manufactures only one elastomer product, identification of that elastomer product.

(ii) If the EPPU is designed and operated as a flexible operation unit, the information specified in paragraphs (f)(8)(ii)(A) through (f)(8)(ii)(D) of this section, as appropriate, shall be submitted.

(A) If a primary product could be determined, identification of the primary product.

(B) Identification of which compliance option, either paragraph (f)(6)(i) or (f)(6)(ii) of this section, has been selected by the owner or operator.

(C) If the option to establish separate parameter monitoring levels for each product in paragraph (f)(7)(i) of this section is selected, the identification of each product and the corresponding parameter monitoring level.

(D) If the option to establish a single parameter monitor level in paragraph (f)(7)(ii) of this section is selected, the parameter monitoring level for each parameter.

(9) *EPPUs terminating production of all elastomer products.* If an EPPU terminates the production of all elastomer products and does not anticipate the production of any elastomer products in the future, the process unit is no longer an EPPU and is not subject to this subpart after notification is made to the Administrator. This notification shall be accompanied by a rationale for why it is anticipated that no elastomer products will be produced in the process unit in the future.

(10) *Redetermination of applicability to EPPUs that are flexible operation units.* Whenever changes in production occur that could reasonably be expected to change the primary product of an EPPU that is operating as a flexible operation unit from an elastomer product to a product that would make the process unit subject to another subpart of this part, the owner or operator shall re-evaluate the status of the process unit as an EPPU in accordance with paragraphs (f)(10)(i) through (iii) of this section.

(i) For each product produced in the flexible operation unit, the owner or operator shall calculate the percentage of total operating time in which the product was produced for the preceding five-year period, or since the date that the process unit began production of any product, whichever is shorter.

(ii) The owner or operator shall identify the primary product as the product with the highest percentage of total operating time for the period.

(iii) If the conditions in (f)(10)(iii)(A) through (C) of this section are met, the flexible operation unit shall no longer be designated as an EPPU after the compliance date of the other subpart and shall no longer be subject to the provisions of this subpart after the date that the process unit is required to be in compliance with the provisions of the other subpart of this part to which it is subject. If the conditions in paragraphs (f)(10)(iii)(A) through (C) of this section are not met, the flexible operation unit shall continue to be considered an EPPU

and subject to the requirements of this subpart.

(A) The product identified in (f)(10)(ii) of this section is not an elastomer product; and

(B) The production of the product identified in (f)(10)(ii) of this section is subject to another subpart of this part; and

(C) The owner or operator submits a notification to the Administrator of the pending change in applicability.

(g) *Storage vessel ownership determination.* The owner or operator shall follow the procedures specified in paragraphs (g)(1) through (g)(7) of this section to determine to which process unit a storage vessel shall be assigned. Paragraph (g)(8) of this section specifies when an owner or operator is required to redetermine to which process unit a storage vessel is assigned.

(1) If a storage vessel is already subject to another subpart of 40 CFR part 63 on September 5, 1996, that storage vessel shall be assigned to the process unit subject to the other subpart.

(2) If a storage vessel is dedicated to a single process unit, the storage vessel shall be assigned to that process unit.

(3) If a storage vessel is shared among process units, then the storage vessel shall be assigned to that process unit located on the same plant site as the storage vessel that has the greatest input into or output from the storage vessel (i.e., the process unit that has the predominant use of the storage vessel.)

(4) If predominant use cannot be determined for a storage vessel that is shared among process units and if only one of those process units is an EPPU subject to this subpart, the storage vessel shall be assigned to that EPPU.

* * * * *

(6) If the predominant use of a storage vessel varies from year to year, then predominant use shall be determined based on the utilization that occurred during the year preceding September 5, 1996 or based on the expected utilization for the 5 years following September 5, 1996, whichever is more representative of the expected operations for that storage vessel for existing affected sources, and based on the expected utilization for the first 5 years after initial start-up for new affected sources. The determination of predominant use shall be reported in the Notification of Compliance Status, as required by § 63.506(e)(5)(vii).

(7) Where a storage vessel is located at a major source that includes one or more process units which place material into, or receive materials from the storage vessel, but the storage vessel is located in a tank farm (including a marine tank farm), the applicability of this subpart shall be determined according to the provisions in paragraphs (g)(7)(i) through (g)(7)(iv) of this section.

(i) The storage vessel may only be assigned to a process unit that utilizes the storage vessel and does not have an intervening storage vessel for that product (or raw material, as appropriate). With respect to any process unit, an intervening storage vessel means a storage vessel connected by hard-piping both to the process unit and to the storage vessel in the tank farm so that product or raw material entering or leaving the process unit flows into (or from) the intervening storage vessel and does not flow directly into (or from) the storage vessel in the tank farm.

(ii) If there is no process unit at the major source that meets the criteria of paragraph (g)(7)(i) of this section with respect to a storage vessel, this subpart does not apply to the storage vessel.

(iii) If there is only one process unit at the major source that meets the criteria of paragraph (g)(7)(i) of this section with respect to a storage vessel, the storage vessel shall be assigned to that process unit. Applicability of this subpart to the storage vessel shall then be determined according to the provisions of paragraph (a) of this section.

(iv) If there are two or more process units at the major source that meet the criteria of paragraph (g)(7)(i) of this section with respect to a storage vessel, the storage vessel shall be assigned to one of those process units according to the provisions of paragraphs (g)(3) through (g)(6) of this section. The predominant use shall be determined among only those process units that meet the criteria of paragraph (g)(7)(i) of this section.

(8) If the storage vessel begins receiving material from (or sending material to) a process unit that was not included in the initial determination, or ceases to receive material from (or send material to) a process unit that was included in the initial determination, the owner or operator shall reevaluate the applicability of this subpart to that storage vessel.

(h) *Recovery operations equipment ownership determination.* The owner or operator shall follow the procedures specified in paragraphs (h)(1) through (h)(6) of this section to determine to which process unit recovery operations equipment shall be assigned. Paragraph (h)(7) of this section specifies when an owner or operator is required to redetermine to which process unit the recovery operations equipment is assigned.

(1) If recovery operations equipment is already subject to another subpart of 40 CFR part 63 on September 5, 1996, that recovery operations equipment shall be assigned to the process unit subject to the other subpart.

(2) If recovery operations equipment is dedicated to a single process unit, the recovery operations equipment shall be assigned to that process unit.

(3) If recovery operations equipment is shared among process units, then the recovery operations equipment shall be assigned to that process unit located on the same plant site as the recovery operations equipment that has the greatest input into or output from the recovery operations equipment (i.e., that process unit has the predominant use of the recovery operations equipment).

(4) If predominant use cannot be determined for recovery operations equipment that is shared among process units and if one of those process units is an EPPU subject to this subpart, the recovery operations equipment shall be assigned to the EPPU subject to this subpart.

* * * * *

(6) If the predominant use of recovery operations equipment varies from year to year, then the predominant use shall be determined based on the utilization that occurred during the year preceding September 5, 1996 for existing affected sources or based on the expected utilization for the 5 years following September 5, 1996 for existing affected sources, whichever is the more representative of the expected operations for the recovery operations equipment, and based on the expected utilization for the first 5 years after initial start-up for new affected sources. The determination of predominant use shall be reported in the Notification of Compliance Status, as required by § 63.506(e)(5)(viii).

(7) If a piece of recovery operations equipment begins receiving material from a process unit that was not included in the initial determination, or ceases to receive material from a process unit that was included in the initial determination, the owner or operator shall reevaluate the applicability of this subpart to that recovery operations equipment.

(i) *Changes or additions to plant sites.* The provisions of paragraphs (i)(1) through (i)(4) of this section apply to owners or operators that change or add to their plant site or affected source. Paragraph (i)(5) provides examples of what are and are not considered process changes for purposes of paragraph (i) of